

University of Antigua School of Medicine
 Course on Physical Diagnosis (September 06 - December 12, 2007)
 Site: St. Joseph Mercy Oakland Hospital
 Pontiac, Michigan

15 *WZ*

SCHEDULE OF LECTURES, PRACTICAL SESSIONS AND QUIZZES

9/07

9/12/07

Date	Hour	Activity	Theme	Lecturer
09/14	8:00-9:00A	Dept. of Medicine	Journal Club	Conf. Rm. E
9/14	9:00-11:00A	Lecture	Clinical History	Dr. Yanez
9/14	11:00-1:00N	Lecture/Practice	Vital Signs and Practice	Dr. Yanez
9/21	8:00-9:00	Dept. of Medicine	Grand Rounds	Conf. Rm. E
9/21	900 - 11 00A	Lecture/Practice	HENT Exam and Practice	Dr. Nicola
9/21	11:00-1:00 N	Lecture/Practice	Lungs, Respiratory Syst Exam	Dr. Khan
9/28	8:00-9:00A	Dept. of Medicine	Morbidity & Mortality	Conf. Rm. E
9/28	9:00-10:00A	Lecture	Imaging (I)	Dr. Saber
9/28	10:00-11:00A	Lecture	Heart, CV system Exam (I)	Dr. Diaczok
9/28	11:00-12:00N	Presentation	Two-minutes case # 1	Dr. Yanez
9/28	12:00-1:00N	Quizzes 1,2	Clinical HX, VS, Respiratory	Staff
10/5	7:00-8:00A	Lecture	Ethics	Conf. Rm. E
10/5	9:00-11:00	Lecture	Heart, CV System Exam (II)	Dr. Yanez
10/5	11:00-12 N	Practice	Heart, CV System Exam	Staff Yanez
10/12	8:00-9:00 A	Dept. of Medicine	Grand Rounds	Conf. Rm.
10/12	9:00-10:00A	Practice	Heart, CV System Exam	Staff
10/12	10:00-11:00 A	Lecture	Abdomen, GI System	Dr. Nicola
10/12	11:00-12 N	Practice	Heart, CV System Exam	Dr. Yanez

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10/12	12:00 - 2:00	Quiz #3	Lungs, Respiratory	Staff ✓
10/19	8:00-9:00 A	Dept. Of Medicine	Grand Rounds	Conf. Rm.
10/19	9:00-10:00A	Lecture	Eyes Exam ✓	Dr. Khan —
10/19	10:00-11:00 A	Presentation	Two-minutes Case # 2	Dr. Yanez Kh
10/19	11:00-12:00N	Lecture	Hemopoietic, Lymphopoietic	Dr. Nicola
10/19	12:00-1:00N	Quiz 4	Heart, CV System Exam	Staff ✓
10/26	8:00-9:00 A	Dept. Of Medicine	Grand Rounds	Conf. Rm. ✓
10/26	9:00-10:00A	Lecture	Skin Exam ✓	Dr. Khan —
10/26	10:00-11:00A	Lecture	Acute Abdomen ✓	Dr. Nicola —
10/26	11:00-12 N	Quiz 5 / 16	Imaging / Orth	Staff ✓
11/2	7:00-8:00A	Lecture	Ethics	Conf. Rm. E
11/2	8:00-9:00 A	Dept of Medicine	Grand Rounds	Conf. Rm.
11/2	9:00-10:00 A	Lecture	Kidney, GU System Exam	Dr. Yanez
11/2	10:00-11:00 A	Lecture	Neurological Exam ✓	Dr. Nicola
11/2	11:00-12:00N	Practice	Neurological Exam ✓	Dr. Nicola
11/2	12:00-1:00 N	Quizzes 6, 7	Eyes, Skin, GI	Staff
11/9	8:00-9:00 A	Dept. of Medicine	Grand Rounds	Conf. Rm.
11/9	9:00-11:00 A	Lecture/Practice	Breast Exam, GYN/ GU	Dr. Yanez
11/9	11-1	Quiz 2	9, 10 Nephro/Neuro	Conf. Rm.
11/16	8:00-9:00 A	Dept. of Medicine	Grand Rounds	Conf. Rm.
11/16	9:00-10:00A	Lecture	Psychiatry Exam	Dr. Yanez

Dean - Clues given
 Revised 10/08/07 (Per: AUA)
 GI - clues - given

Neuro - clues given
 Nephro - clues given
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 Course on Physical Diagnosis (September 06 - December 12, 2007)
 Site: St. Joseph Mercy Oakland Hospital
 Pontiac, Michigan

SCHEDULE OF LECTURES, PRACTICAL SESSIONS AND QUIZZES

11/16	10:00-11:00 A	Lecture	Musculo-skeletal exam	Dr. Khan
11/16	11:00-12:00 A	Practice	Musculo-skeletal Exam	Dr. Khan
11/16	12:00-1:00 N	Lecture	OB/Gyn Exam / Practice	Dr. Yanez
11/16	1:00-2:00 N	Quiz 9,10	Urology, Neurology	Staff
11/19	9:00-10:00 A	Lecture	Pediatric Exam	Dr. Yanez
11/19	10:00-12:00 N	Lecture	Health Maintenance / Stats	Dr. Malloy
11/19	12:00-1:30 N	Quiz 11,12,13,14	M-S, Psy, Ped, OB/GYN	Staff
11/30	8:00-9:00	Dept of Medicine	Grand Rounds	Conf. Rm.
11/30	9:00-11:00 A	Presentation	Two-minutes # 3	Dr. Yanez
11/30	11:00-12:00 N	Quiz # 15, 16	Hemopoietic, Lymph, H Maint	Staff
11/30	12:00-1:00 N		Portfolio due	Staff
12/7	8:00-12 N	Final written exam	Textbook, lectures, Practices	Staff
12/3-12/7	By appointment with preceptors	Final Practical Exam	Examination of a patient, write-up, case presentation	Preceptors
12/11	2:00- 7:00 P	Exam	Shelf-like	On-line
12/14	8:00-12 N	Exam	Shelf	Staff

**(Lectures are in Conference Room C)

**(Lecture on 11/16/07 will be in Conference Room D)

University of Antigua School of Medicine
Course on Physical Diagnosis (September 06 - December 12, 2007)
Site: Harbor Hospital
ADJUSTED SCHEDULE OF LECTURES, PRACTICAL SESSIONS AND QUIZZES (October 12 and 19, 2007)

10/12	7:00-8:00A	Lecture	Imaging - (II)	R. Raza
10/12	8:00-9:30A	Lecture, Practice	Heart, CV System Exam	Mardelli
10/12	10:00-11A	Quiz # 3	Lungs, respiratory	Patel, Calderon
10/12	11:00-12N	Heart, CV System	Practice - Video	Patel, Calderon
10/19	7:00-8:00A	Lecture	Eyes Exam	V. Notarangelo
10/19	8:00-9:00A	Practice	Eyes Exam	V. Notarangelo
10/19	10:00-11:00A	Lecture	Acute Abdomen	G. Gurfinkel
10/19	11:00-12 N	Quiz 4	Heart, CV System Exam	Patel, Calderon
10/26	8:00-10:00A	Lecture	Skin Exam	Patel
10/26	10:00-11:00A	Presentation	Two-minutes Case # 2	Patel
10/26	11:00-12 N	Quiz 5	Imaging	Patel
11/2	8:00-9:00 A	Lecture	Kidney, GU System Exam	Kuppusamy
11/2	9:00-10:00 A	Lecture	Neurological Exam	Mody
11/2	10:00-11:00 A	Practice	Neurological Exam	Mody
11/2	11:00-12 N	Quizzes 6,7	Eyes, Skin	Patel

American University of Antigua College of Medicine
 V Semester - Preliminary Clinical Training
 Pontiac Michigan - St Joseph Mercy Oakland

Final Grades by Component - Fall, 2007																			
Code	Attendance		Prac Session		Outpatient		Verbal Presn		Portfolio		Quizzes		Written Ex		Practical Ex		Final		Final Grade Adjusted
	Score	PT	Score	PT	Score	PT	Score	PT	Score	PT	Score	PT	Score	Curv	Score	PT	Score	PT	
1 Hampel, Nicola	92	9.2	92	4.6	100	5.0	100	5.0	100	10.0	54	18.9	77	81	95	9.5	78		C
2 Jayadeep, Simbia	100	10.0	100	5.0	80	4.0	100	5.0	100	10.0	57	20.1	80	84	95	9.5	79		C
3 Ozuomba, Michael	100	10.0	100	5.0	83	4.2	100	5.0	100	10.0	56	19.6	70	74	80	8.0	77		F (2)
4 Chheda, Vishal	75	7.5	75	3.8	86	4.3	100	5.0	100	10.0	62	21.7	86	90	75	7.5	76		C
5 Bulat, Elizabeth	100	10.0	100	5.0	96	4.8	100	5.0	100	10.0	70	24.4	84	88	85	8.5	83		B
6 Evans, Lekedra	100	10.0	100	5.0	96	4.8	100	5.0	100	10.0	65	22.6	73	77	85	8.5	83		C(-)
7 Woodward, Steve	100	10.0	100	5.0	95	4.8	100	5.0	100	10.0	62	21.6	71	75	80	8.0	80		F (3)
8 Paras, Chahal	100	10.0	100	5.0	92	4.6	100	5.0	100	10.0	58	20.4	79	83	80	8.0	81		B
9 Hamed, Mousa	100	10.0	100	5.0		0.0	100	5.0	100	10.0	70	24.4	87	92	93	9.3	82		B (4)
10 Kristen, Nico	100	10.0	100	5.0		0.0	100	5.0	100	10.0	68	23.9	78	82	80	8.0	83		B (4)

- (1) Failed Final Exam. Remedial score 78. Final Grade: C(-)
 (2) Failed Final Exam. Has not taken remedial
 (3) Failed Final Exam. Did take remedial and failed
 (4) Did not have OP rotation. Total score / 95
 (4) Did not take OP rotation. Total Score / 95

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From: Jeffrey Yanez (YANEZJ@trinity-health.org)
To: Steve Woodward
Date: Monday, December 10, 2007 6:32:13 AM
Subject: Re: Final exam "curve"

noted. I am awaiting AUA's decision.

>>> Steve Woodward <steve_1_woodward@yahoo.com> 12/9/2007 10:25 PM >>>
Dr Yanez,

I don't understand?

My grade was a 537 out of 800. my average is 67% with the curve it would be a 77%.
Total Points Possible: 800
Total Points Earned: 537
Current Average: 67

I only need 3%, i.e. an extra 23 points overall to equal 560.
My lowest scores were as follows:
Hemopoietic/Lymphopoietic System: 50 21
Cardiovascular: 100 47
I need 23 points from either or both of these exams.

I thought with everything else i.e., including my reviews, getting my portfolio finished, seeing over 174 patients (since I know some that told me they didn't see 100), going to every grand round/ morning report and lecture, I only missed one day when my brother went to the ICU at Henry Ford Hospital. I not only attended an additional CME; I studied to learn and taught the cryothyrotomy station and made a endoscopy training device for the anesthesia students at U of M.

I haven't mentioned until now, I had a funeral for my aunt last Wednesday I only went to the showing since the funeral service was on Thursday and I needed to study. She was at Shwartz Funeral home in Flint her name is Elizabeth Schnieder.
Last Tuesday I even rebuilt my old laptop so Paras had a computer she could use for the exam, since hers broke.

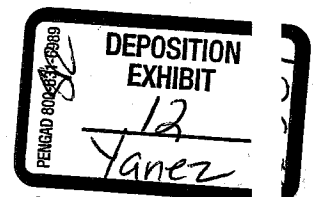
So for 3% (or 23 questions), please tell me what I need to do.

Thanks for all your help,

Steve

----- Original Message -----

From: Jeffrey Yanez <yanezj@trinity-health.org>
To: steve_1_woodward@yahoo.com
Sent: Sunday, December 9, 2007 9:10:04 PM
Subject: Re: Final exam "curve"



Check your numbers and math. You need 560 out of 800 questions (with curve).

>>> Steve Woodward <steve_1_woodward@yahoo.com> 12/09/07 5:47 PM >>>
Dr Yanez,

I only need 3%...

Thanks
Steve

----- Original Message -----

From: Jeffrey Yanez <yanezj@trinity-health.org>
To: steve_1_woodward@yahoo.com
Sent: Sunday, December 9, 2007 4:29:11 PM
Subject: Re: Final exam "curve"

I do not have a copy at my home on Sunday PM.

>>> Steve Woodward <steve_1_woodward@yahoo.com> 12/09/07 10:31 AM >>>
Dr Yanez,

They graded my vocabulary test. so I got a 67% overall.

I didn't keep a copy of the words for the vocabulary section.
Can you email me that sheet?

If I could retake anyparts of that exam I would rather retake cardiovascular and hemo/lymph tests.
Those are the two I drew a complete blank on and have the review mat'l for.

Thanks for all your help.

Steve

----- Original Message -----

From: Jeffrey Yanez <yanezj@trinity-health.org>
To: steve_1_woodward@yahoo.com
Sent: Saturday, December 8, 2007 9:56:31 PM
Subject: Re: Final exam "curve"

I am confident that the paper I handed out Friday AM makes 80% a real possibility. All the words from the definitions are listed. I am waiting to see what AUA states.

>>> Steve Woodward <steve_1_woodward@yahoo.com> 12/08/07 9:15 PM >>>
Dr Yanez,

I appreciate the effort.

If I got 100% on the vocabulary I would get a 72% (not counting the extra 10%)
I would need an 80% on that test to make up the difference.
What was the average on that single test?

Steve

----- Original Message -----

From: Jeffrey Yanez <yanezj@trinity-health.org><~!B*+R^&>To: steve_1_woodward@yahoo.com
Sent: Saturday, December 8, 2007 4:34:53 PM
Subject: Re: Final exam "curve"

AUA (Dr. Calderone) also noted that you scored 0 on the vocabulary and he wondering why or what happened. I will take up your case with them. The best option for you may be to retake the vocabulary section ,if I can get them to go for it? Check with me on Monday or so. I am waiting for a decision from them.

>>> Steve Woodward <steve_1_woodward@yahoo.com> 12/08/07 2:58 PM >>>
Dr Yanez,

I found another problem with my exam.
The exam didn't grade the vocabulary section.
I got a 68% not counting that test.
I typed in all the answers in the space, I didn't put just a letter.
I just found out that we were suppose to put the letter in the space.
Whoever designed that test should have used letters instead of spaces.
That would have really helped narrow down the right answers too.

Are they just giving a straight 10% or are they also dropping the questions that didn't have pictures or had wrong pictures in the questions?

Thanks

Steve

----- Original Message -----

From: Jeffrey Yanez <yanezj@trinity-health.org><~!B*+R^&>To: Bulat
<elizabethbulat@comcast.net>; Hamed <m.hamed01@gmail.com>; Chheda
<vishal.doctor@gmail.com>; Evans <lakedra_evans@hotmail.com>; Hampel
<n_hampel@hotmail.com>; Ozuomba <ozuomba@hotmail.com>; Chahal <chahalparas@yahoo.com>;
Sibia <jaya18_221@yahoo.com>; Kristen <nicokristen@yahoo.com>; Woodward
<steve_1_woodward@yahoo.com><~!B*+R^&>Cc: Deneen McCall <MCCALLDY@trinity-
health.org>; Susan Zonia <ZONIAS@trinity-health.org><~!B*+R^&>Sent: Saturday, December 8,
2007 8:39:48 AM
Subject: Final exam "curve"

After reviewing the final exam results AUA has decided to apply a 10% "curve" . AUA requires a 80% score on the final written exam to pass semester V. Your score + 10% = final curve score.
The maximal score with the curve is 95%!

JPY

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

STEVEN WOODWARD,

Plaintiff,

v

File No. 07-088103-CZ

HON. SHALINA KUMAR

TRINITY HEALTH-MICHIGAN,
a Michigan Nonprofit corporation,
SUSAN CATHERINE ZONIA, an individual,
AMERICAN UNIVERSITY OF ANTIGUA
A Foreign corporation,

Defendants.

DEPOSITION OF DENEEN MCCALL

Taken by the Plaintiff on the 3rd day of February, 2009, at
322 North Old Woodward Avenue, Birmingham, Michigan, at
10:30 a.m.

APPEARANCES:

For the Plaintiff: MR. PAUL J. NICOLETTI (P44419)
Nicoletti & Associates, PC
39520 Woodward Avenue, Suite 200
Bloomfield Hills, Michigan 48304
(248) 203-7800

For the Defendant: MR. DAVID B. GUNSBURG (P24235)
Law Office of David B. Gunsberg
322 North Old Woodward Avenue
Birmingham, Michigan 48009
(248) 646-9090

Also Present: Alex Pathenos
Susan Zonia

RECORDED BY: Sheila H. Raymond, CER 6932
Certified Electronic Recorder
Network Reporting Corporation
1-800-632-2720

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1	TABLE OF CONTENTS	1	Q I'll remind you from time to time. And I'm not trying to be
2	PAGE	2	rude. I'm just trying to make a clear record for the court
3		3	reporter. Okay?
4	Examination by Mr. Nicoletti.3, 35	4	A Okay.
5	Examination by Mr. Gunsberg33, 36	5	Q Where are you currently employed, Deneen?
6		6	A St. Joseph Mercy Oakland Hospital.
7	EXHIBIT INDEX	7	Q And how do you spell your first name?
8	PAGE	8	A D-e-n-e-e-n.
9	Deposition Exhibit 8 marked.36	9	Q And it's M-c-C-a-l-l?
10	(Student Evaluation Outpt Rotation-Dr. Breitenboch)	10	A Yes.
11	Deposition Exhibit 9 marked.36	11	Q And how long have you been employed by the hospital?
12	(Student Evaluation Fall 2007-Dr. Malloy)	12	A Four and a half years.
13	Deposition Exhibit 10 marked30	13	Q And what do you do for the hospital?
14	(McCall Email 10-10-2007)	14	A I am a coordinator for student services.
15		15	Q What does that mean?
16		16	A I take care of all the medical students that come in the
17		17	hospital looking for clinical rotations.
18		18	Q And have you been doing the same type of duties for the
19		19	four and a half years?
20		20	A Yes.
21		21	Q What did you do before you started working at St. Joe's?
22		22	A I lived in Chicago and I was a office manager for a n-for-
23		23	profit organization.
24		24	Q What does that mean? Is that a hospital?
25		25	A No. I worked with children that are awarded to the state.
Page 3		Page 5	
1	Birmingham, Michigan	1	Q Okay. So what's your educational background?
2	Tuesday, February 3, 2009 - 10:46 a.m.	2	A High school.
3	REPORTER: Raise your right hand. Do you solemnly	3	Q So what training prepared you for the position at St. Joe's?
4	swear or affirm that the testimony you're about to give will	4	A Just having good communication skills, being able to
5	be the whole truth?	5	communication and some office skills as far as doing,
6	MS. MCCALL: Yes.	6	computer work.
7	DENEEN MCCALL	7	Q Who is your supervisor?
8	having been called by the Plaintiff and sworn:	8	A Donna Hambleton
9	EXAMINATION	9	Q I'm sorry?
10	BY MR. NICOLETTI:	10	A Donna Hambleton.
11	Q You're Ms. McCall?	11	Q Could you spell the last name, please?
12	A Yes.	12	A H-a-m-b-l-e-t-o-n.
13	Q First name is Deneen?	13	Q And what is Donna Hambleton's title?
14	A Yes.	14	A She is administrative director.
15	Q Deneen, my name is Paul Nicoletti and I'm going to take your	15	Q What are her responsibilities?
16	deposition today. Have you ever had your deposition taken	16	A I'm not quite sure of all her responsibilities.
17	before?	17	Q Have you ever had your deposition taken before?
18	A No.	18	A No.
19	Q I'm going to ask you a series of questions. If you don't	19	Q Have you ever been a party to a lawsuit before?
20	understand any of my questions just let me know and I'll try	20	A No.
21	to clarify it or rephrase the question for you. Try to	21	Q How long has Donna Hambleton been working at St. Joe's?
22	answer the court reporter with a verbal response "yes" or	22	A I'm not sure.
23	"no" as opposed to a nonverbal, like a "uh-huh" as the court	23	Q Has she been there at least as long as you have?
24	reporter can't take that down.	24	A Yes.
25	A Okay.	25	Q So in other words she was there before you?

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<p>1 A Yes.</p> <p>2 Q Now, can you describe the duties of the coordinator of</p> <p>3 medical services?</p> <p>4 A Sure. I deal with the students that's coming from different</p> <p>5 medical schools that need to come into the hospital to have</p> <p>6 clinical training so they contact me looking for core</p> <p>7 rotations where they actually have to go out on the floors</p> <p>8 with the physicians to be involved in patient care.</p> <p>9 Q I would imagine that over the years you have dealt with a</p> <p>10 lot of medical students?</p> <p>11 A Yes.</p> <p>12 Q And does the name Steven Woodward stand out?</p> <p>13 A Yes.</p> <p>14 Q And you said that with a smirk on your face.</p> <p>15 MR. GUNSBURG: I object to the characterization.</p> <p>16 It was a smile.</p> <p>17 Q It was a smile/smirk. What would you have called it?</p> <p>18 A A smile.</p> <p>19 Q Okay. And why did you smile when I mentioned Steven</p> <p>20 Woodward's name?</p> <p>21 A Because you asked me did the name stand out.</p> <p>22 Q And as opposed to just saying "yes," why did you smile when</p> <p>23 you said "yes"?</p> <p>24 A Because his name stand out.</p> <p>25 Q Okay. But usually a smile is when somebody is happy about</p>	<p>1 Q And do you recall who the other students were?</p> <p>2 A Not offhand.</p> <p>3 Q And what was your -- strike that. What form of</p> <p>4 communication or relationship did you have with Steven</p> <p>5 Woodward? Did you have interaction with Steven Wood rd on</p> <p>6 a daily basis?</p> <p>7 A Not on a daily basis, no.</p> <p>8 Q How often?</p> <p>9 A A couple of times, maybe once or twice out of a w k.</p> <p>10 Q All right. So you came in contact with Steven Woodwai once</p> <p>11 or twice a week for how many weeks?</p> <p>12 A 15.</p> <p>13 Q All right. So that's maybe 30 individual contacts with</p> <p>14 Steven Woodward. Does that sound about right?</p> <p>15 A I'm not sure.</p> <p>16 Q Now, what was your first contact with Steven Woodwar do</p> <p>17 you recall it?</p> <p>18 A Yes. The entire group had to come and meet with e for</p> <p>19 orientation.</p> <p>20 Q Did they meet with you and anybody else or was it just J?</p> <p>21 A The first day it was just me.</p> <p>22 Q And how did that go?</p> <p>23 A It was fine.</p> <p>24 Q And was there some point in time when it wasn't quite</p> <p>25 fine with Steven Woodward?</p>
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<p>1 something. You were happy about Steven Woodward, weren't</p> <p>2 you?</p> <p>3 A What do you mean?</p> <p>4 MR. GUNSBURG: I'm going to object to the form of</p> <p>5 the question.</p> <p>6 Q Well, you liked Steven Woodward, didn't you?</p> <p>7 MR. GUNSBURG: I'm going to object to relevance.</p> <p>8 Go ahead.</p> <p>9 A I like all my students.</p> <p>10 Q Okay. All right. Did you like Steven Woodward more than</p> <p>11 the ordinary student?</p> <p>12 A No, I like all my students the same.</p> <p>13 Q Tell me how you first came in contact with Steven Woodward?</p> <p>14 A He came from Antigua, American University of Antigua, as a</p> <p>15 fifth semester student and when Steven Woodward came to St.</p> <p>16 Joseph we just started the program, fifth semester, for</p> <p>17 American University of Antigua.</p> <p>18 Q Was Steven Woodward in the first set of students that the</p> <p>19 hospital had started to put through the program?</p> <p>20 A Yes.</p> <p>21 Q So prior to Steven Woodward's class the program had not been</p> <p>22 in existence; is that correct?</p> <p>23 A Not at St. Joseph.</p> <p>24 Q How many students came in Steven Woodward's class?</p> <p>25 A It was a group of ten.</p>	<p>1 A Yes. The first week they actually started the rotation.</p> <p>2 Q And when was that?</p> <p>3 A I'm not quite sure of the date, but it was about two day</p> <p>4 later.</p> <p>5 Q So two days after you first met him?</p> <p>6 A Yes.</p> <p>7 Q And tell me about it.</p> <p>8 A He started complaining about he didn't know how this gram</p> <p>9 was going to help him with passing step one.</p> <p>10 Q And what did you say?</p> <p>11 A He need to take the issues up with American University</p> <p>12 Antigua.</p> <p>13 Q And what was he complaining about specifically?</p> <p>14 A Spending too much time in the hospital and not enough re</p> <p>15 studying.</p> <p>16 Q After two days?</p> <p>17 A Yes.</p> <p>18 Q Had he even been in the hospital after two days?</p> <p>19 A Yes.</p> <p>20 Q How much time was he supposed to spend in the hospital?</p> <p>21 A I'm not sure.</p> <p>22 Q Did you communicate the fact that he was complaining after</p> <p>23 two days to your supervisor?</p> <p>24 A Yes.</p> <p>25 Q And your supervisor would have been Donna Hambleton?</p>

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<p>1 A Not for that program.</p> <p>2 Q Who would your supervisor have been for this program?</p> <p>3 A Dr. Zonia and Dr. Jeffrey Yanez.</p> <p>4 Q Is there a difference between responsibility for Zonia and</p> <p>5 Yanez, if you know, or are they equal status?</p> <p>6 A I'm not sure.</p> <p>7 Q And so did you relay the fact that Mr. Woodward had</p> <p>8 complained to Dr. Zonia and/or Dr. Yanez?</p> <p>9 A Yes.</p> <p>10 Q And we're talking about the two-day part; right?</p> <p>11 A Yes.</p> <p>12 Q All right. What did you tell them?</p> <p>13 A I told Dr. Yanez that Steven had already came to me and</p> <p>14 started complaining about the time that he is spending in</p> <p>15 the hospital.</p> <p>16 Q Did you think that that was unusual that he had already been</p> <p>17 complaining?</p> <p>18 A Yes.</p> <p>19 Q And what did Dr. Yanez say?</p> <p>20 A He said that Steve need to take the issues up with American</p> <p>21 University of Antigua.</p> <p>22 Q And did you tell Steven that?</p> <p>23 A Yes.</p> <p>24 Q And did Steve do that?</p> <p>25 A I'm not sure.</p>	<p>1 Q Were there ever any other complaints besides that complain</p> <p>2 A Yes.</p> <p>3 Q What were the other complaints and when did he communi</p> <p>4 those to you?</p> <p>5 A I'm not for sure exactly when he communicated ther out he</p> <p>6 started complaining that the entire program was stu</p> <p>7 Q "The program" being the fifth semester?</p> <p>8 A Yes.</p> <p>9 Q Did he ever say that the AUA program was stupid?</p> <p>10 A I don't recall.</p> <p>11 Q All right. So when Mr. Woodward said that the program wa</p> <p>12 stupid are those the words he used or is that your</p> <p>13 understanding of what he was trying to communicate?</p> <p>14 A No, those are the words he used.</p> <p>15 Q All right. And did you communicate those words to Dr.</p> <p>16 Yanez?</p> <p>17 A Yes.</p> <p>18 Q And what did Dr. Yanez say?</p> <p>19 A "He has to take that up with American University of igua.</p> <p>20 It's their program."</p> <p>21 Q So in order for me to avoid having to ask you every time</p> <p>22 what Dr. Yanez said, is it fair for me to assume that every</p> <p>23 time you told Dr. Yanez what Steve was complaining about</p> <p>24 that he had the same response, "You have to take it up with</p> <p>25 AUA"?</p>
Page 11	Page 13
<p>1 Q All right. So that was the first complaining episode. Is</p> <p>2 it fair for me to categorize it like that? Do you</p> <p>3 understand?</p> <p>4 A Yes.</p> <p>5 Q All right. What happened after that?</p> <p>6 A He continued to come to my office throughout the 15 weeks</p> <p>7 and complain.</p> <p>8 Q And did he come to your office once or twice a week for the</p> <p>9 whole 15 weeks?</p> <p>10 A Yes.</p> <p>11 Q And did you document or did you memorialize his complaints</p> <p>12 for each and every visit?</p> <p>13 A No.</p> <p>14 Q What did you do in terms of -- he would come to you to</p> <p>15 complain, how did you document or how did you record it or</p> <p>16 did you record it?</p> <p>17 A I did not record it, but as soon as he left out of my office</p> <p>18 I went down and talked to Dr. Yanez.</p> <p>19 Q Every time?</p> <p>20 A Every time.</p> <p>21 Q And the first time -- the first complaint he came to you</p> <p>22 about was about spending too much time in the hospital?</p> <p>23 A Yes.</p> <p>24 Q Was it the same complaint every time?</p> <p>25 A Yes.</p>	<p>1 A Yes.</p> <p>2 Q Okay. Did he ever have any different response?</p> <p>3 A Not that I can recall.</p> <p>4 Q So he always said that that's between Steve and AUA?</p> <p>5 A Right.</p> <p>6 Q Okay. Any other complaints that Steve had that he to ou</p> <p>7 about?</p> <p>8 A No.</p> <p>9 Q Now, aside from Steven Woodward complaining to you nce or</p> <p>10 twice a week for 15 weeks, did you ever have a chance</p> <p>11 observe his demeanor? Do you know what I mean by</p> <p>12 "demeanor"?</p> <p>13 A No.</p> <p>14 Q Did you ever have a chance to observe the way he ha ed</p> <p>15 himself in the classroom setting or when he was in the</p> <p>16 hospital or when he was in seeing patients?</p> <p>17 A No.</p> <p>18 Q Whose responsibility would that have been?</p> <p>19 A The physician that he was rounding with.</p> <p>20 Q So in terms of your overall observations of Steven Wor ard</p> <p>21 besides feeling that he complained a lot, is -- does that</p> <p>22 pretty much sum up your feelings about him?</p> <p>23 MR. GUNSBERG: Object to the form of the qu ion.</p> <p>24 You can answer if you understand.</p> <p>25 A I don't understand what you're saying.</p>

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Page 14	Pa 16
<p>1 Q Well, you felt that Steven Woodward complained a lot about 2 the program?</p> <p>3 A Yes.</p> <p>4 Q Were any of his complaints valid complaints?</p> <p>5 A I don't know.</p> <p>6 Q Is it fair for me to assume that you never investigated into 7 whether or not any of his complaints were valid complaints?</p> <p>8 A No.</p> <p>9 Q It's not fair for me to assume that?</p> <p>10 A No.</p> <p>11 Q All right. What complaints did you investigate to determine 12 that they were valid?</p> <p>13 A Oh, I'm sorry. Yes, that's fair for you to assume that.</p> <p>14 Q That's what I thought you meant to say. All right. So you 15 were the conduit. You just passed Mr. Woodward's complaints 16 along to Dr. Yanez?</p> <p>17 A Yes.</p> <p>18 Q And Dr. Yanez said, "That's between Steve and the school, 19 don't worry about it"?</p> <p>20 A Don't shoot the messenger, yes.</p> <p>21 Q Okay. All right. Is it fair for me to assume Dr. Yanez 22 never did anything to address Steven Woodward's complaints?</p> <p>23 MR. GUNSBURG: Objection; foundation. Do you 24 know?</p> <p>25 Q Do you know? If you know.</p>	<p>1 A I thought it was unfair that he constantly complain o me 2 as opposed to dealing with the school.</p> <p>3 Q Now, you said as opposed to dealing with the school. Do y 4 know if he ever complained to anybody at the school?</p> <p>5 A I'm not sure.</p> <p>6 Q All right. But you said "as opposed to dealing with anybod 7 at the school," so obviously you have a frame of mind that 8 he didn't deal with anybody at the school. Why --</p> <p>9 MR. GUNSBURG: Objection to --</p> <p>10 MR. NICOLETTI: I didn't finish my question. Can 11 I finish my question?</p> <p>12 MR. GUNSBURG: Go ahead and finish the question</p> <p>13 Q Why do you believe that he didn't voice his complaints to 14 anybody at the school?</p> <p>15 MR. GUNSBURG: Objection to foundation. Assum a 16 fact not in evidence. You can answer the question.</p> <p>17 A Because I felt like if he talked to someone at the scl il 18 why did he continue to complain to me after I told hi he 19 had to talk to the university.</p> <p>20 Q Did you ever tell him to stop complaining to you?</p> <p>21 A I told him that it was nothing I could do.</p> <p>22 Q But did you ever tell him to stop complaining to you?</p> <p>23 A Not that I recall.</p> <p>24 Q Is it your function as an employee of St. Joe's to interact 25 with students that might have complaints?</p>
Page 15	Pa 17
<p>1 A I don't know.</p> <p>2 Q Approximately how many medical students do you think that 3 you have come in contact with over the four and a half 4 years?</p> <p>5 A Anywhere between 3- and 400.</p> <p>6 Q I would imagine that it's from students from all over the 7 world, ethnically; correct?</p> <p>8 A Yes.</p> <p>9 Q Does -- strike that. Are you capable or is it possible for 10 you to voice your opinion as to whether or not that you 11 thought Steven Woodward acted as a professional while he was 12 in the program?</p> <p>13 MR. GUNSBURG: Objection as to foundation, 14 qualification and relevance of her opinion, but you can 15 answer if you can.</p> <p>16 A Can you say that again?</p> <p>17 Q Did he act unprofessional?</p> <p>18 A Yes.</p> <p>19 Q Why did he act unprofessional?</p> <p>20 A Because he constantly complained about the program even 21 after he was told that he need to take the issues up with 22 AUA, that we're just administering AUA's program.</p> <p>23 Q So you thought that it was unprofessional of him to tell you 24 about his complaints as opposed to dealing with the school 25 directly?</p>	<p>1 A Yes.</p> <p>2 Q And so you're not saying that it was inappropriate for him 3 to complain to you. You're saying that you didn't like the 4 fact that he continued to complain to you?</p> <p>5 A Yes.</p> <p>6 Q Now, Dr. Zonia wrote a memorandum on December 17th 2007. 7 Do you recall -- I'll show you what we have marked as 8 Exhibit Number 6. Have you ever seen that document bef ?</p> <p>9 A Yes.</p> <p>10 Q When did you first see that?</p> <p>11 A After Dr. Zonia wrote it I had to put a copy in the fi</p> <p>12 Q Are you aware as to whether or not Dr. Zonia had a roug 13 draft of something similar to that exhibit before you saw 14 the copy that she handed you to put in the file?</p> <p>15 A I don't know.</p> <p>16 Q Okay. Now, she merely handed that document to you to : in 17 the file?</p> <p>18 A Yes.</p> <p>19 Q Did she have any discussions with you prior to writing the 20 memorandum as to whether or not anything contained wil it 21 was true or false?</p> <p>22 A Yes.</p> <p>23 Q And when did that discussion take place?</p> <p>24 A Before the letter was written.</p> <p>25 Q How soon before the letter was written?</p>

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<p style="text-align: right;">Page 18</p> <p>1 A I'm not sure.</p> <p>2 Q In terms of time frame are we talking a week, two weeks, a</p> <p>3 month, a year?</p> <p>4 A I'm not sure.</p> <p>5 Q Tell me about the discussion that you had with Dr. Zonia</p> <p>6 pertaining to that memorandum? When was it? Where was it?</p> <p>7 How did it take place?</p> <p>8 A I talked to her in her office and I was telling her about</p> <p>9 the constant complaining from Steven Woodward about the</p> <p>10 program and Dr. Zonia said that she was going to talk to AUA</p> <p>11 about it and AUA responded to Dr. Zonia asking her to put it</p> <p>12 in writing.</p> <p>13 Q And was that in December of 2007?</p> <p>14 A Yes.</p> <p>15 Q How many times did you talk to Dr. Zonia about the fact that</p> <p>16 Steven Woodward complained too much?</p> <p>17 A Several.</p> <p>18 Q At the time that you talked to Dr. Zonia about Steven</p> <p>19 Woodward complaining too much did you know that she was</p> <p>20 working on some type of a memorandum to send to AUA?</p> <p>21 A No.</p> <p>22 Q When was it that you found out for the first time that she</p> <p>23 was going to write a memorandum to AUA?</p> <p>24 A I'm not for sure of the date.</p> <p>25 Q Did she specifically discuss that memo with you before it</p>	<p style="text-align: right;">Page 20</p> <p>1 were stupid and they were not helpful to him.</p> <p>2 Q And besides that did he say anything else?</p> <p>3 A No.</p> <p>4 Q Did you ever have a discussion with Mr. Zonia about Mr.</p> <p>5 Woodward venting his anger in a professionally unacceptable</p> <p>6 manner?</p> <p>7 A Not that I can remember.</p> <p>8 Q Did you ever see Mr. Woodward express his anger in a</p> <p>9 professionally unacceptable manner?</p> <p>10 A No.</p> <p>11 Q Do you have any personal knowledge whether Mr. Woodwar</p> <p>12 completed his hundred patient log in two weeks?</p> <p>13 A Yes.</p> <p>14 Q What personal knowledge do you have?</p> <p>15 A He came to my office first and said that he finished hi 50</p> <p>16 patient log, now do he have to return to the service.</p> <p>17 Q Now, you said 150 patient log. The memo says, 100 patient</p> <p>18 log. Why is there a difference, if you know?</p> <p>19 A It has changed a lot so I'm not 100 percent sure if his</p> <p>20 group was 100 or groups after him, but the patient log unt</p> <p>21 changes every semester.</p> <p>22 Q All right. So he came to you and said he had completed his</p> <p>23 100 patient log in two weeks?</p> <p>24 A Yes.</p> <p>25 Q And what did you say?</p>
<p style="text-align: right;">Page 19</p> <p>1 was sent to AUA?</p> <p>2 A I'm not sure.</p> <p>3 Q Could you hand me that, please?</p> <p>4 (Witness hands exhibit to counsel)</p> <p>5 Q Did you ever have a discussion with Dr. Zonia about Steven</p> <p>6 Woodward having a poor attitude or his demeanor being</p> <p>7 inappropriate or detrimental to the program?</p> <p>8 A I'm not sure.</p> <p>9 Q Did you ever have a discussion with Dr. Zonia about Mr.</p> <p>10 Woodward representing -- or I'm sorry -- resenting every</p> <p>11 assignment that he was given?</p> <p>12 A Yes.</p> <p>13 Q When was that? Tell me about that.</p> <p>14 A That was in the beginning of the 15 weeks.</p> <p>15 Q How much in the beginning?</p> <p>16 A At least the first five I can remember.</p> <p>17 Q First five what?</p> <p>18 A Not the first five. The first two to three weeks I can</p> <p>19 remember.</p> <p>20 Q The first two to three weeks --</p> <p>21 A Of the program.</p> <p>22 Q -- that the program had started. And tell me about his</p> <p>23 resentment about assignments he was being given?</p> <p>24 A He did not want to be on the service. He did not feel like</p> <p>25 the academic sessions were any good. He said that the tests</p>	<p style="text-align: right;">Page 21</p> <p>1 A That he needed to talk to Dr. Yanez if he no longer v ted</p> <p>2 to return to the service.</p> <p>3 Q And did he talk to Dr. Yanez about that?</p> <p>4 A I'm not sure.</p> <p>5 Q Did you ever talk to Dr. Zonia about Mr. Woodward reques</p> <p>6 a transfer to the Miami program?</p> <p>7 A No.</p> <p>8 Q Did Mr. Woodward ever tell you that he thought he was</p> <p>9 wasting his time in the fifth semester program and that he</p> <p>10 thought his time would be better spent in a Kaplan course?</p> <p>11 A Yes.</p> <p>12 Q And when was that?</p> <p>13 A Two weeks after he started the program.</p> <p>14 Q And what did he say?</p> <p>15 A That it was a waste of his time and he can spend his me</p> <p>16 studying.</p> <p>17 Q And what did you say?</p> <p>18 A He needed to talk to American University of Antigua</p> <p>19 Q Did you ever talk to Dr. Zonia about Mr. Woodward sabot g</p> <p>20 exams by giving the same response to all questions?</p> <p>21 A Yes.</p> <p>22 Q And when was that?</p> <p>23 A I'm not quite sure of the date.</p> <p>24 Q What was the conversation that you had?</p> <p>25 A Dr. Zonia told me that American University of Antig</p>

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<p>1 informed her that Steve answered her Exam Master with the</p> <p>2 same answer and that was not acceptable.</p> <p>3 Q And did you form an opinion as to whether or not that was</p> <p>4 acceptable or not?</p> <p>5 A No.</p> <p>6 Q Did Dr. Zonia say whether or not that was acceptable?</p> <p>7 A No.</p> <p>8 Q Do you have any personal knowledge as to whether or not that</p> <p>9 is acceptable?</p> <p>10 A No.</p> <p>11 Q Do you know whether the Kaplan course teaches that as an</p> <p>12 exam strategy?</p> <p>13 A I don't know.</p> <p>14 Q Do you know anything about the Kaplan course?</p> <p>15 A I do not.</p> <p>16 Q Did you ever discuss with Dr. Zonia Mr. Woodward requesting</p> <p>17 early release on a virtually daily basis from his clinical</p> <p>18 rotation so he could study for the boards?</p> <p>19 A I don't remember.</p> <p>20 Q Do you know whether or not Mr. Woodward -- strike that. Do</p> <p>21 you recall ever discussing with Dr. Zonia whether Mr.</p> <p>22 Woodward had ever argued with the faculty at St. Joe?</p> <p>23 A I'm sorry. Can you repeat that?</p> <p>24 Q Did you ever discuss with Dr. Zonia whether Mr. Woodward had</p> <p>25 ever argued with the faculty at St. Joe?</p>	<p>1 came to me to complain about the program.</p> <p>2 Q So you're assuming that he didn't do that since he was still</p> <p>3 complaining to you?</p> <p>4 MR. GUNSBURG: Object to the form of the question.</p> <p>5 Q Do you understand the question?</p> <p>6 A No.</p> <p>7 MR. GUNSBURG: It's a non-sequitur.</p> <p>8 Q You're assuming that Mr. Woodward never took his concerns up</p> <p>9 with AUA since he was still complaining to you?</p> <p>10 A I'm not sure if he took his complaints to AUA. I just</p> <p>11 didn't understand why he constantly complained to me a r I</p> <p>12 told him there was nothing I can do.</p> <p>13 Q Have you ever been asked to determine whether or not a</p> <p>14 student would be an ambassador, a good ambassador, for the</p> <p>15 medical school from which the student came from?</p> <p>16 A No.</p> <p>17 Q Do you know what would make a student a good ambassador?</p> <p>18 A No.</p> <p>19 Q Did Dr. Zonia ever discuss whether Steven Woodward would be</p> <p>20 a good ambassador for AUA?</p> <p>21 A Not to me.</p> <p>22 Q Did you ever form an opinion as to whether Steven Woodward</p> <p>23 met the qualifications to sit for the boards?</p> <p>24 A No.</p> <p>25 Q Is that part of your position?</p>
Page 23	Page 25
<p>1 A No.</p> <p>2 Q Are you aware of Mr. Woodward ever arguing with the faculty</p> <p>3 at St. Joe?</p> <p>4 A No.</p> <p>5 Q Are you aware as to whether or not Mr. Woodward ever</p> <p>6 demonstrated his contempt for the curriculum?</p> <p>7 MR. GUNSBURG: Other than what she has testified</p> <p>8 about?</p> <p>9 A What do you mean?</p> <p>10 Q Did Mr. Woodward ever physically demonstrate that he was</p> <p>11 that he didn't approve of the program?</p> <p>12 A Yes.</p> <p>13 Q And how was that?</p> <p>14 A He was not on the service a couple of days and when he was</p> <p>15 paged he never returned the page to let us know in the</p> <p>16 hospital where he was at.</p> <p>17 Q And was there ever a problem with his pager that was</p> <p>18 discovered after that?</p> <p>19 A Not that I know of.</p> <p>20 Q In your opinion did Mr. Woodward have poor communication</p> <p>21 skills?</p> <p>22 A Yes.</p> <p>23 Q And why do you say that?</p> <p>24 A Because if he was told to take his issues up with American</p> <p>25 University of Antigua I don't understand why he constantly</p>	<p>1 A No.</p> <p>2 Q Now, prior to coming here today for your deposition did you</p> <p>3 have any discussions with anybody pertaining to what</p> <p>4 questions you might be asked or what answers you mig be --</p> <p>5 that maybe you should give?</p> <p>6 MR. GUNSBURG: I'm going to object to the fo of</p> <p>7 the question. Did you have any conversations with any ly</p> <p>8 about your deposition other than me?</p> <p>9 THE WITNESS: No.</p> <p>10 MR. GUNSBURG: And I'm going to object to a</p> <p>11 questions about her conversations with me as privilege</p> <p>12 MR. NICOLETTI: Privileged based on what?</p> <p>13 MR. GUNSBURG: She is an employee of the h ital,</p> <p>14 Trinity and Trinity is my client. I am acting on their</p> <p>15 behalf today.</p> <p>16 Q Prior to coming for your deposition today did you have</p> <p>17 chance to review any documentation?</p> <p>18 A No.</p> <p>19 Q And when is the last time that you reviewed any</p> <p>20 documentation concerning Steven Woodward?</p> <p>21 A The 15th week of the program.</p> <p>22 Q And that was at the end of the program?</p> <p>23 A Yes.</p> <p>24 Q And why did you review documentation at that time?</p> <p>25 A Because I had to file evaluations into his folder</p>

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<p>1 Q And what evaluations did you put in his folder, if you 2 recall?</p> <p>3 A His final practical exam and his two evaluations from the 4 services that he was rounding on.</p> <p>5 Q And what's the final practical exam?</p> <p>6 A The students are being examined -- tested as far as their 7 medical knowledge for the ears, the eyes, the throat.</p> <p>8 Q Now, did you bring any records with you today?</p> <p>9 A No.</p> <p>10 Q Dr. Zonia says that you have a file for Steven Woodward; is 11 that correct?</p> <p>12 A Yes.</p> <p>13 Q And where is that file?</p> <p>14 A With David Gunsberg.</p> <p>15 Q And what is contained in that file?</p> <p>16 A His general information about himself, confidentiality 17 papers that he had to sign for the hospital, evaluations 18 that he was evaluated as far as the physicians, some tests, 19 the memo from Dr. Zonia.</p> <p>20 MR. NICOLETTI: Okay. If we can just take a brief 21 break here while I look through this. Do we have Dr. Yanez?</p> <p>22 MR. GUNSBURG: 11:30.</p> <p>23 MR. NICOLETTI: Well, it's just that I've got a 24 pretrial at 1:15.</p> <p>25 MR. GUNSBURG: Let's just make sure on the record</p>	<p>1 Q And what are the evaluations for? What are they evaluati 2 A When the student is in the service with the physicia he 3 physician has to evaluate the student as far as their 4 behavior on the service.</p> <p>5 Q And who performed those evaluations?</p> <p>6 A Dr. Breitenboch and Dr. Malloy.</p> <p>7 Q And what did either of those two doctors say about Steve 8 Woodward? Did they give him a good review or did they g 9 him a bad review?</p> <p>10 MR. GUNSBURG: I'm going to object. The docur its 11 say what they say. Are you asking this witness to interpre 12 what they mean?</p> <p>13 Q Well, what --</p> <p>14 MR. GUNSBURG: I object to the foundation and 15 relevance. They say what they say.</p> <p>16 Q What was the overall characterization of Steven Woodwa 17 performance? Was it good or was it bad?</p> <p>18 MR. GUNSBURG: Again, I'll object to asking the 19 witness to characterize what it says. The document says 20 what it says.</p> <p>21 Q If you know.</p> <p>22 A On the evaluations?</p> <p>23 Q Yes.</p> <p>24 A Were they good evaluations or were they bad?</p> <p>25 A They were good evaluations.</p>
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<p>1 that Mr. Nicoletti cancelled the deposition this afternoon 2 for Dr. Nicola scheduled for 2:00 o'clock.</p> <p>3 REPORTER: Did you want to go off the record?</p> <p>4 MR. NICOLETTI: Yeah. 5 (Off the record)</p> <p>6 Q Ms. McCall, I am looking at the file that you had provided 7 to your attorney and there are two student evaluation 8 outpatient -- there is two forms. One is a student 9 evaluation outpatient rotation and then the other is a 10 inpatient student evaluation. And these are -- do you 11 recognize those?</p> <p>12 A Yes.</p> <p>13 MR. NICOLETTI: I'd like to have those marked as 14 exhibits.</p> <p>15 MR. GUNSBURG: These are originals.</p> <p>16 MR. NICOLETTI: Do you want to have copy of those 17 made first then?</p> <p>18 MR. GUNSBURG: Why don't you ask her about it and 19 then we can mark them? You have them already anyway.</p> <p>20 Q Did you ever review those documents?</p> <p>21 A Yes.</p> <p>22 Q And what are they essentially?</p> <p>23 A It's the evaluation from American University of Antigua.</p> <p>24 Q And are those from late 2007?</p> <p>25 A Yes.</p>	<p>1 Q So other than complaining a lot is it fair for me to assum 2 that Steven Woodward was a good student?</p> <p>3 MR. GUNSBURG: Objection; foundation as to w her 4 this witness has knowledge of that information.</p> <p>5 Q If you know.</p> <p>6 A I don't know.</p> <p>7 Q In fact Dr. Malloy's evaluation was dated December 5th 8 2007; is that right?</p> <p>9 A I'm not sure what date is at the bottom.</p> <p>10 MR. NICOLETTI: I'd like to mark Dr. Malloy's 11 evaluation as Exhibit 7.</p> <p>12 REPORTER: 8.</p> <p>13 MR. NICOLETTI: 8. And we'll mark Dr. 14 Breitenboch's as 9.</p> <p>15 Q Are you aware that Dr. Breitenboch said that Steven W ward 16 was an excellent student?</p> <p>17 A No.</p> <p>18 Q Does that surprise you?</p> <p>19 A Yes.</p> <p>20 Q Why does it surprise you, because he complained so m ? 21 A Yes, and that's not the impression he left in the n ical 22 education department.</p> <p>23 Q Your answer is based on whose impression, yours or sc :body 24 else's?</p> <p>25 A His -- well, mine.</p>

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1 Q So as far as you're concerned he didn't leave a positive
2 impression?

3 A **No.**

4 MR. GUNSBURG: That was "no," he did not?

5 A **No, he did not.**

6 Q Did he leave a positive impression upon anybody else in your
7 department?

8 A **Not that I know of.**

9 Q So is it fair for me to assume that everybody in your
10 department disliked Steve Woodward?

11 A **I don't know.**

12 Q Did you dislike Steve Woodward?

13 A **No.**

14 Q Do you recall sending an email to Mr. Woodward indicating
15 that you were happy to have Steve at St. Joseph?

16 A **I don't remember.**

17 MR. NICOLETTI: This will be Exhibit 10; is that
18 right?

19 REPORTER: Yes.
20 (Deposition Exhibit 10 marked)

21 Q Did you send that email?

22 A **Yes.**

23 Q That email came from your computer?

24 A **Yes.**

25 Q Why is it that that email doesn't seem to track with what

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1 you have testified today? You don't seem very happy about
2 Steven Woodward today so why was it that that email says
3 that you're happy to have him?

4 MR. GUNSBURG: Object to the form of the question.
5 It misstates her testimony. You can answer.

6 A **I'm happy when all the students come to St. Joe's. I enjoy
7 working with students.**

8 Q All right. So you send that email to every student?

9 A **I don't remember.**

10 Q Do you recall sending emails to all the students on a
11 regular basis?

12 A **No.**

13 Q So is it fair for me to assume that for you to send an email
14 to a student is out of the ordinary?

15 A **No, it's not out of the ordinary.**

16 Q Okay. Can I see that email?

17 (Counsel hands exhibit to counsel)

18 Q This email was sent by you on October 10th of 2007; isn't
19 that correct?

20 MR. GUNSBURG: Why don't you let her see it?
21 (Counsel hands exhibit to witness)

22 A **Yes.**

23 Q And Dr. Zonia testified that there was a lot happening in
24 terms of Steven Woodward in October of 2007. Would you
25 agree with that?

Page 32

1 A **Yes.**

2 Q And you're indicating in that email that you were pleased
3 with Steven Woodward as of October 2007, aren't you?

4 MR. GUNSBURG: I'll object to the form of the
5 question. It misstates the document.

6 Q Tell me why you sent that to Steven Woodward.

7 A **Because before Steve emailed me he stopped by the o e and
8 said he wanted to stay at St. Joseph and he hoped that
9 feelings didn't change towards him.**

10 Q And so that's your response to that?

11 A **Yes. My feelings don't change towards the students a I am
12 happy to have them in the hospital. Anyway that I can lp
13 them pursue with their clinicals of the semester is my j**

14 Q What do you know about Steven Woodward's desire to leave
15 Joe's and go to Miami, I guess?

16 A **Yes. I don't know much about it.**

17 Q Do you know who he asked for permission from or whether
18 permission was granted to leave St. Joe's?

19 A **I'm not sure who he talked to.**

20 Q Did you have anything -- did you have any input concerning
21 his request to leave St. Joe and go to Miami?

22 A **No.**

23 Q And do you have any idea why he wanted to go to Miami?

24 A **No.**

25 Q Were there any other students in Steve Woodward's class the

Page 33

1 complained as much as he did?

2 A **No.**

3 Q Have there been any other students in any other class that
4 have complained as much as Steve Woodward?

5 A **No.**

6 Q So does Steven Woodward stand out in your mind as l ing the
7 biggest complainer in St. Joe history?

8 A **Yes.**

9 Q Does anybody even come close?

10 A **No.**

11 MR. NICOLETTI: I have no further questions.
12 MR. GUNSBURG: I just have a followup quest
13 EXAMINATION

14 BY MR. GUNSBURG:

15 Q Exhibit 10 it looks like that Steve Woodward actually h
16 emailed you and you were responding to him; is that c ect?

17 A **Yes.**

18 Q And Steven Woodward apparently was telling you that was
19 not going to be allowed to transfer to Miami and that A
20 would not let him transfer?

21 A **Yes.**

22 Q And here he is confirming that he had talked to Dr. Zo
23 about not being allowed to transfer and that apparently
24 was going to be allowed to stay at St. Joe; is that corre
25 A **Yes.**

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Page 34	Page 36
<p>1 Q Is that what you understood?</p> <p>2 A Yes.</p> <p>3 Q Were you just trying to reassure him that you had no ill</p> <p>4 feeling towards him?</p> <p>5 A Yes.</p> <p>6 Q And that was the purpose of your email?</p> <p>7 A Yes.</p> <p>8 Q Did you have any personal animosity towards Steven Woodward?</p> <p>9 A No.</p> <p>10 Q All right. And did Steven Woodward complain to you</p> <p>11 consistently and regularly up until the end of the program?</p> <p>12 A Yes.</p> <p>13 Q And did Steven Woodward tell you that he did not want to be</p> <p>14 at the hospital, that he would rather be home studying or</p> <p>15 words to that effect?</p> <p>16 A Yes.</p> <p>17 Q And was that a constant complaint of his right up 'til the</p> <p>18 end?</p> <p>19 A Yes.</p> <p>20 Q And you communicated that to Dr. Zonia and Dr. Yanez?</p> <p>21 A Yes.</p> <p>22 Q He told you that he thought the fifth semester program was</p> <p>23 stupid?</p> <p>24 A Yes.</p> <p>25 MR. GUNSBERG: That's all I have.</p>	<p>1 MR. GUNSBERG: I just have a couple of follow</p> <p>2 EXAMINATION</p> <p>3 BY MR. GUNSBERG:</p> <p>4 Q Did you have access to Mr. Woodward's files and recor n</p> <p>5 Antigua?</p> <p>6 A No.</p> <p>7 Q Did you have any information about whether or not Mr.</p> <p>8 Woodward had had any prior disciplinary actions impose upon</p> <p>9 him in Antigua?</p> <p>10 A No.</p> <p>11 Q The disciplinary hearing that you're referring to that</p> <p>12 occurred in December of 2007; is that correct?</p> <p>13 A Yes.</p> <p>14 Q So when Mr. Woodward came to St. Joe he came with lean</p> <p>15 slate; is that correct?</p> <p>16 A Yes.</p> <p>17 Q So this opinion that you formed about him regarding h</p> <p>18 constant complaining that was based solely on his actio at</p> <p>19 St. Joe; is that correct?</p> <p>20 A Yes.</p> <p>21 MR. GUNSBERG: I have nothing else.</p> <p>22 MR. NICOLETTI: I have nothing further.</p> <p>23 (Deposition Exhibits 8 and 9 marked)</p> <p>24 (Deposition concluded at 11:30 a.m.)</p> <p>25 -0-0-</p>
Page 35	
<p>1 EXAMINATION</p> <p>2 BY MR. NICOLETTI:</p> <p>3 Q Did Steve Woodward, did he pass the fifth semester?</p> <p>4 A I'm not sure.</p> <p>5 Q Have you ever checked his file to determine -- does his file</p> <p>6 say if he passed fifth semester?</p> <p>7 A It does not. The final grade comes from American University</p> <p>8 of Antigua.</p> <p>9 Q And you wouldn't get a copy for your file?</p> <p>10 A I don't remember getting a copy.</p> <p>11 Q Were you aware that there were disciplinary proceedings</p> <p>12 against Steven Woodward?</p> <p>13 A Yes.</p> <p>14 Q When did you become aware of disciplinary proceedings?</p> <p>15 A At the end of his 15 weeks.</p> <p>16 Q And how did that come about?</p> <p>17 A The American University of Antigua wanted to have a</p> <p>18 conference call with Steve at the hospital so I had to</p> <p>19 provide a room for him to be able to talk to American</p> <p>20 University of Antigua.</p> <p>21 Q And did that conference call take place?</p> <p>22 A No.</p> <p>23 Q Why not?</p> <p>24 A I'm not sure.</p> <p>25 MR. NICOLETTI: No further questions.</p>	

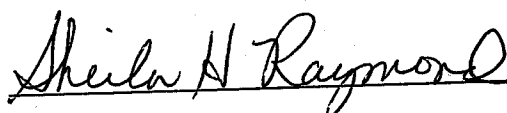
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2
3
4
5 I certify that this transcript, consisting of 36 pages, is a
6 complete, true and correct record of the testimony of Deneen
7 McCall held in this case on February 3, 2009.

8 I also certify that prior to taking this deposition, Deneen
9 McCall was duly sworn to tell the truth.
10
11
12
13
14
15
16
17

18 February 10, 2009


Sheila H. Raymond, CER 6932
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2604 Sunnyside Drive
Cadillac, Michigan 49601-8749

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25 Page 37

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AMERICAN
UNIVERSITY
COLLEGE OF
MEDICINEManipal
INSPIRED BY LIFEKASTURBA
BHAIJI
COLLEGE

SEMESTER V: PRELIMINARY CLINICAL TRAINING
 SITE Pontiac, Michigan - FALL 2007
STUDENT EVALUATION - OUTPATIENT ROTATION

DEPOSITION EXHIBIT 8 Mc CAI	KASTURBA BHAIJI COLLEGE
	2307

Student's Name: <u>Steven Woodward</u>	Preceptor's Name: <u>Dr. Breitenbach</u>	Dates: From: <u>10/29/07</u> To: <u>11/14/07</u>
---	---	--

1) PLEASE, RATE THE STUDENT FROM A-TO F:

1.0 Attendance: Attended scheduled sessions at your Office	RA	E								
<table border="0"> <tr> <td>F</td> <td>C</td> <td>B</td> <td>A</td> </tr> <tr> <td>(Missed 3 or more sessions in 6 weeks)</td> <td>(Missed 2 sessions in 6 weeks)</td> <td>(Missed 1 session in 6 weeks)</td> <td>(Attended all scheduled sessions)</td> </tr> </table>	F	C	B	A	(Missed 3 or more sessions in 6 weeks)	(Missed 2 sessions in 6 weeks)	(Missed 1 session in 6 weeks)	(Attended all scheduled sessions)	<u>A</u>	<u> </u>
F	C	B	A							
(Missed 3 or more sessions in 6 weeks)	(Missed 2 sessions in 6 weeks)	(Missed 1 session in 6 weeks)	(Attended all scheduled sessions)							

2) PLEASE, GIVE THE STUDENT A PERCENTAGE SCORE AS FOLLOWS:

< 60%	Substandard
60 - <70%	Borderline adequate
70 - <80%	Competent
80 - <90%	Superior
90 - 100%	Outstanding

2.1 Medical Knowledge: Demonstrated appropriate knowledge of basic sciences and was able to apply it to the clinical situations he/she encountered.	SCC	E
	<u>7</u>	<u> </u>

2.2 Attitude: Displayed initiative and positive disposition to learn, cooperative and constructive attitude toward the members of team or Group that he/she was assigned to (As opposite to being negative and conflictive)	SCC	E
	<u>9</u>	<u> </u>

2.3 Learning Skills: Gradually started to master proper skills concerning elaboration of clinical history and examination of the different body systems, analyses of the results, and formulation of working diagnosis.	SCC	E
	<u>9</u>	<u> </u>

2.4 Communication Skills: Demonstrates listening skills, interchange medically related information with other members of the team, shows progress in concisely and effectively presenting clinical cases both in written and verbal form.	SCC	E
	<u>9</u>	<u> </u>

2.5 Professionalism: a) Demonstrated commitment to professional development and solid ethical principles and sensitivity to patients/family and peer diversity; b) showed compassion, respect and honesty; c) Accepted responsibility for his/her acts.	SCC	E
	<u>9</u>	<u> </u>

3. - General observations on the student's performance and suggestions for improvement:

VERY COMPETENT LITERATE
EXCELLENT STUDENT.

4. - Please, fill the following portion for the students rotating at your Office from March 1 through March 29, 2007.

The student has mastered the following skills:

< 60%	Substandard
60 - <70%	Borderline adequate
70 - <80%	Competent
80 - <90%	Superior
90 - 100%	Outstanding

Skills	Score	Pointed Suggestions for improvement
A) Elaboration of solid comprehensive clinical history	80	
B) Elaboration of focused Clinical History	80	
a) General examination of the eyes	80	
b) Examination of HENT and Neck	80	
c) Examination of Chest and Lungs	80	
d) Examination of Heart and CV System	80	
e) Examination of Abdomen	80	
f) Examination of Breast	80	
g) Examination of Female GU System		NOT DONE THIS OFFICE
h) Examination of Male GU System	80	
i) Examination of Nervous System	80	
j) Gross examination of Mental Condition	80	
k) Examination of Musculoskeletal System	80	
l) Examination of Skin	80	
C) Overall skill to perform comprehensive physical examination	80	
D) Overall Skill to perform focused Physical examination	80	

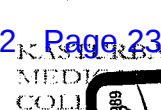
4. - Evaluation discussed with student:

 11/29/07
Preceptor's Signature Date

 11/29/07
Student's Signature Date
Form DOCS- EVALUATION 05 - 09/01/07 JEC



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SEMESTER V: PRELIMINARY CLINICAL TRAINING

St. Joseph Mercy Oakland Hospital, Pontiac Michigan – Fall 2007**IN-PATIENT STUDENT EVALUATION - TEAM _____**

Student's Name: Steven Woodward	Preceptor's Name: D. Malloy, M.D.
--	--

1) PLEASE, RATE THE STUDENT FROM A TO F:

1.0				RA: <div style="border: 1px solid black; padding: 5px; display: inline-block;">A</div>
Attendance: Attended academic sessions: including: a) morning rounds, b) morning case presentations, c) questions/discussion, d) ward rounds, e) morning lectures, f) grand rounds				
F	C	B	A	
(Missed 3 or more sessions in 2 weeks)	(Missed 2 sessions in 2 weeks)	(Missed 1 session in 2 weeks)	(Attended all scheduled sessions)	

2) PLEASE, GIVE THE STUDENT A PERCENTAGE SCORE AS FOLLOWS:

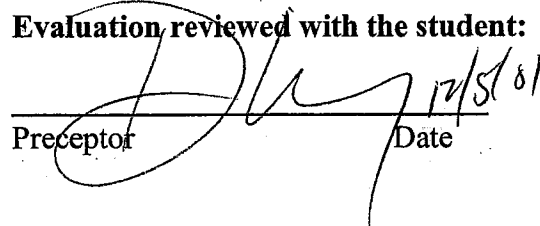
< 60%	Substandard
60 - <70%	Borderline adequate
70 - <80%	Competent
80 - <90%	Superior
90 - 100%	Outstanding

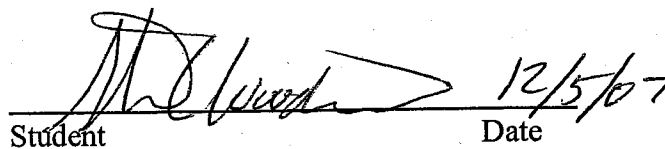
2.1 Medical Knowledge: Demonstrated appropriate knowledge of basic sciences and was able to apply it to the clinical situations he/she encountered..	SCC <div style="border: 1px solid black; padding: 5px; display: inline-block;">8</div>	E
2.2 Attitude: Displayed initiative and positive disposition to learn, cooperative and constructive attitude toward the members of team or Group that he/she was assigned to (As opposite to being negative and conflictive)	SCC <div style="border: 1px solid black; padding: 5px; display: inline-block;">9</div>	E
2.3 Learning Skills: Gradually started to master proper skills concerning elaboration of clinical history and examination of the different body systems, analyses of the results, and formulation of working diagnosis.	SCC <div style="border: 1px solid black; padding: 5px; display: inline-block;">9</div>	E
2.4 Communication Skills: Demonstrates listening skills, interchange medically related information with other members of the team, shows progress in concisely and effectively presenting clinical cases both in written and verbal form.	SCC <div style="border: 1px solid black; padding: 5px; display: inline-block;">9</div>	E
2.5 Professionalism: a) Demonstrated commitment to professional development and solid ethical principles and sensitivity to patients/family and peer diversity; b) showed compassion, respect and honesty; c) Accepted responsibility for his/her acts.	SCO <div style="border: 1px solid black; padding: 5px; display: inline-block;">9</div>	E

2.6

Suggestions for Improvement

Evaluation reviewed with the student:


Preceptor Date 12/5/07


Student Date 12/5/07

Print

From: Deneen Nicks (NICKSD@trinity-health.org)
To: Steve Woodward
Date: Wednesday, October 10, 2007 8:32:29 AM
Subject: Re: Miami

Hello,

I am always willing to help the students to the best of my ability. My feelings about you are still the same, "I AM HAPPY TO HAVE YOU AT ST. JOSEPH"

PS... I am counting it down and can't wait to that day gets here.

Deneen

>>> "Steve Woodward" <steve_l_woodward@yahoo.com> 10/9/2007 7:50 PM >>>
Deneen,

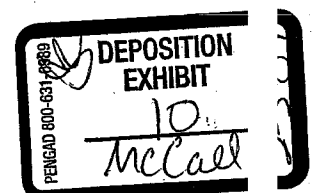
AUA would not let me transfer to Miami.

I already spoke with Dr Zonia about my situation and I am allowed to stay at St Josephs.

Thank you for your cooperation and help,

Steve

PS The weekend is getting closer! I know you counting the seconds.



Individual Number	Date	Rm #	Observation
1			Constipation pain tender inc WBC Fever L pain
2			Bladder Spasm, Blood in urine, Older 192/80, Diverculitis, nc patch for smoking from ICU. Good humor
3			Stopped steroids, BM, Dr. performed Resp. Exam Dischrg.
4			BF, Diabetic obese, Dr requested bone biopsy, inspected the stump of pt L stump. Requested G.S. drain fluid, Res. review ultrasound, Warm stump observed, abscess. Bone Infection from prothetic ulcer. Bilateral amputee b/l knee
5			WF, Nausea, vomiting, diarrhea loose stool no ab. Pain, Coloscopy F/U Dischg
			COPD Cystoscopy 3L O2 Emphysema Labia mass biopsy swelling in L extremities
			BF R/O bone infection order new prosthetic, drain fluid
6			Code Blue Respiratory arrest in hemodialysis, BP 272/122 administered NaHO4 and Narcan
7			Admitted 9/15 CAD, HTN, DM T2, Cleared for surgery F, commuted femur fracture Hx walk fell in kitchen R knee, Odizzieness, 1.5 hrs to contact EMS, 0 chest SO?B, CAD, 2xstents 2 in each L leg, DMT2, social smoker, BB metformin, gliberide Plavix, Benzocore Chentrix, 80/34 -- 113/68 fluid resusitation PI=56--> 60 95%O2 affebrile
8			Admitted 9/8 w/ abd ascites Alcohol liver disease, Interparitonal Drained 1,500cc/1L/3L/, SOB difficulty breathing, BP 94/, (TIPS requested) portal hepatic stent, affedriile 90 pulse, Resp 18, BP 108/71 100% satO2, caudation, portal gastropathy
9			on respirator possible prophophol related, cardiac arrest revived x 2, Inc WBC, pitting edema, creatin 457, c/c Abd pain x 3days 7/10, constipation, lasics loop diuretics, CAD, BPH, HTN, L-->R
10		?	decr. App, decr weight, Admit 9/10 Furosemide(Finasteride), R/O prostate cancer or bladder cancer
			Sick last night cancer localized in bladder? See board for solution
			Discharge to ECF until Ab therapy is finished/ new prosthetic some drainage in R leg
11			Dyspnea SOB cough since 2001. Weakness/cough Rx persistant pneumonia, plural effusion COPD Bronchoscopy w/possible endobronchial, Renal failure AECI, Lasix
12			replace catheter, knee amputation renal failure 0 fever chills nasea, AV fistulla removed ulcer on leg
13			c SOB asthma, DMT2, sliding scale, B/L weakness R ear redness fluid congestion 2 yr ago hospitalized for asthma congestion non-productive cough 3d x fever chills can't do DM test since on steroids
			Swollen leg ulcer Refused BP order water pill
			Infection anemia decrease in R leg pain from movement neuropathy in L leg decrease fever
			Wheezing, 0 fever, chills, nausea, blood gas schedule some cough, 3/10 ches pain O2 4L
			Dr Malloy ordered a sleep study 0 smoking for 5 days
14			dehydration 0 sign stoke, DM Chief complaint Altered mental status, RMCA infarct AV block Type 1
			Ordered CT of neck
			No new complaint aspirin plavix anti-platelet warfarin
			Amblitory pills/inhaler asthma discharge 9/25

EXHIBIT 7

			Stable alert Xfer to ECF
15			Rectal bleeding endoscopy scheduled pain in back aortic stenotic murmur
16			Discharge decrease dilantin flagelin klubcella
17			Endoscopy/ultrasound F/A [REDACTED] Pt panceratitis, biopsy of lymph nodes
			Pt has horseness, jaw is sore and R/O papaloma of the neck, Pt legs are down/ (-) cancer of polyp of the throat
			Pt wants to go home idiopathic ascites
			Smiling 107 F temp 72/52 WBC increase
			Discharge pt
18			Cellulitis MRSA
19			Epitaxis condin toxicity warfarin
			[REDACTED] chest pain at rest 2 wks sudden pain pressure unstable angina/ radiating down L arm 0 jaw
20			0 Nausea, 0 increase BP, Fx heart attack, manager at a hotel
21			[REDACTED] T 97.9, BP 149/70 P68 R 16 PO 96% L eye missing R eye macular degeneration
22			[REDACTED] back, chest and arm pain x 3days Hep B/C (+)ve 9/10 pain, medication aspirin, Zolof, allergy=0, Alcohol = 0, smoking 3 cigarettes/day
			Pt stated she was OK and ready to go home has b/l crackles Bladder cancer
			Pt needs to see pulmonologist, then discharge
			PT feels OK Abd bleeding dimentia not allert to Time or place
			guaiac test neg, pain radiating around back across chest down leg
23			[REDACTED] substernal pain
24			WM blood in bowels anemia pt wants to go home 9.6 Hg decr. 8.7 ordered another Hg test
25			[REDACTED] c/c SOB, DIB
			[REDACTED] Vancomycin (acute renal dysfunction) nausea, metallic taste in mouth, 0 rash, 0 ringing
26			surgery in July infection around laminectomy site, cramping in back, need pain med (duadid?) for back pain
27			[REDACTED] Lung/kidney cough
28			[REDACTED] Pt wheezing coughing Card MI (2 stent) SOB chest tightness quit smokign x 3months smoked 58yr /day
			PT having renal failure from tobramiciocine
			Pt in Posion" position(tied down agitated metabolic cause ordered haldol
			Eating breakfast Gastritis, protonix vicodin, clinical appointment, pt requesting drugs for heroin addiction (Simboxin) and vicadin, discharge 10/01
			PT had stress test, acute bronchospasm, sputum green--> yellow--> yellow froathy
29			[REDACTED] Cough w/green sputum and UTI ordered Leviquin
			[REDACTED] c/c diarrhea for 1 yr, thrombocytopenic frequent diarrhea, back surgery, Hx camping 33,000 platelets, alcohol(family member told Dr) Alcohol decrease platelets colonoscopy
30			
31			[REDACTED] No Neutrophils anemia, leukemic AMLchemotherapy
32			Wt w/ breast cancer advance metastasis, Xferring to either home or hospice
			[REDACTED] MI chest pain Hx 3rd MI decr S1 and heard S4, asked Pt what could be done to help her stop smoking
33			pt in denial
			Remove IV diarrhea check smear for HUS, PT Hep C +ve diarrhea better
			Smoking cessation HTN cocain abuse (+) 2 stents
34			[REDACTED] Diffuse recurrent abdominal pain vomiting > WBC functional, (-)XR (-)Lab
			Chronic unknown origin, discharged
35			[REDACTED] Fell from her bed trauma to L side arm/leg UTI leviquin
36			[REDACTED] Altered mental status x5 days Hepatic encephalopathy alert 0 oriented to time and place.
37			[REDACTED] Flank/back pain/SOB, <BS R lung B/L pulmonary nodules
38			Hx prostate cancer 2005, tachycardia smoking 45 yrs(quit 3 yrs ago)
			[REDACTED] Diarrhea, psuedomembrane colitis from drux Rx, metrenizol x 7 days
			[REDACTED] fell from ladder(6ft) L5S1 XR, MRI no hurneation, medication not helping, 10/10 for 2wk
39			0 allergies, in recovery positiondiminished sensation in R leg, R side arm/leg constipated 1+ daysR side pain sharp pain.

40			pneumonia cough fever L chest pain inspiration radiating to back on inspiration 7/10 eryth. Sputum L congestion
41			pneumonia walking around ready to go home on vancomycin, chest pressure
42			Altered mental state depressed mental state, DMT2 may have missed insulin, calcification in vertebral artery and carotids all three daughters noticed < faculties Hx 1 kidney, pace maker, Silver Hoth? Procedure on both legs
			Woke from sleeping, pt wouldn't follow fingure for neuro exam and wouldn't allow the Dr to check eyes
			CT ordered for his stomach, still has pain in his stomach
			Loose normal stool
			Increasing cell count prepare to discharge
			Discharged
			SOB
			fever cough w/ sputum, chest pain x 2 days on levaquin x 10 days
			radiologist R/O cardiomegaly
43			Hep C thrombocytopenia ascites pancreas/liver look normal -discharged
			Intermittent (Acute) coronary Syndrome, c/c chest pain x 2 month 8/10 depression, 40% LAD occlusion, 100% RCA, 40% EF, Stent scheduled
			c/c headache + neck pain w/ LOC 6-7/10 CT scan hemotoma pain releaved w/ motrin
44			fell on her porch on the L side of her head. Contusion/swelling around her L eye
45			Dizziness SOB blood sugar 173 atypical pneumonia
46			pneumonia, pt feels better since breathing Tx
47			cc palpitations since Staturday, taking tecasin for ablatification Tx, pt Hx Tetrolgy of Fallot. Repaired at 3yo and 9 yo. Pt had no problems as a child. Has atra flutter from scar tissue
48			cc fever and chills, finished chemo 1wk ago, Hx of CLL, prostate cancer, pacemaker and stent, neutopenia form chemo. Decreased IV to reduce urination, changed diet from cardio to open.
49			cc seizures discharged
			Fell at a ECF has UTI
			Pt moved to 3125 received tecocine for preparation for ablation
			Could not go into room b/c of pt condition
50			Code Blue Cardiac Arrest, multiple recoverys and arrests. Called
51			cc chest pain, many admissions for sickle cell crisis
52			cc Hyperkalemia and chest pain, admitted by her primary care physician, Hx skin cancer
62			removed central line, discharged
53			cc rash biopsy upper trunk rash started Saturday/ caradid brewery
54			Dyspnea pneumonia / switching to oral antibiotics wheezing upper left fields
55			metastatic renal carcinoma
56			cc Headache "Worse Headache of Life" photophobia sharp and constant
57			with back pain/ side pain for 7 days
58			skin cancer, ammonium lactate losion for rash
59			cc facial swelling, started as a pimple in the nose started Friday, Hx of RBBB, headache R/O medication and infection
60			cc Chest Pain, on lipitor, mild LV
61			cc Chest Pain (2 stents 2 wks ago) radiating pain to jaw down arm (different pain than before) SOB
63			cc Chest Pain from right side below ribs fx 2 wks ago, shingles and rash Hx of legionair disease
64			nausea, from pain medication Hx of kidney stones, cc inpatient from flank pain
65			cc Chest Pain w/fever pneumonia adinocarcinoma SOB pneumonia right side pain and chills
66			cc Dizziness and neck pain for one week, had a deffibrillator installed 2 weeks ago 3/10, headache Hx Tetrolgy of Fallot, blackouts and low energy, neck feels like its collapsing
67			pneumonia, No productive cough D/C today
68			cc Endometriosis refused Tx

			cc pneumonia organism, dyspnea sputum thick, aspirated vomit, cough productive/ sweating/aspirated vomit/ nasal aspiration of mat'l/ breathing Rx / I asked if I could help by cleaning the vomit off the pt and was denied.
69			
			cc Pyelonephritis (-) preg test / R/O obstruction, no stone found/Bladder infection / weak fever, Back pain meds causing vomiting – Bladder infection into kidney
70			
			cc Femoral vein phlebitis pressure stocking legs reduced size. Try to reduce and prevent clots/ on blood thinner/ excersize
71			
			pt moved
			surgery w/ heart issues recovering fluid from surgery and stress
			Pt moved from Rm 3101 to 212,
			Pt is ambulatory, scheduled scope for ureter stone
			possible narrowing of the ureter
			Pt has some soreness in his legs, he is scheduled to be discharged tomorrow
72			Cellulitis wound in B/L shins purulant discharge from open wound on the R tibia pain and swelling in the inginal lymph nodes
			Diverticulitis of colon abdominal distension (alcohol) minimal scarring atelectasis in the L leg fatty liver. 3mm calculus in midpole L kidney/ few diverticula in sigmoid via CT from binge drinking. Fatty infiltration of the liver cc/ abdominal pain + NV x 1 day
73			
			Not able to eat but urinating Pt on protonics
74			cc Abdominal pain R upper pain, Ultra sound on/off pain 9/10 radiating to her back/shoulder muphy positive protonix - acid reflux
			cc Chest pain/ unable to afford to stay, Heaviness for one month anteroseptal infarct PVC w/excersize different pain from 2004. Fx of cancer smoking and DM. Has throat and stomach ulcers.
75			cc unable to walk b/c of pain, Gout in L foot diarrhea pain in R arm - 2 wk w/ pain
76			polynephritis laminectomy of back developed an abcess cc weakness B/L in legs
77			"CHF" cc SOB dyspnea ascites fluid overload Tx diarrhea BNP(normal 0-70)496-500 is abnormal
78			renal failure rash dehydration now UTI frontal headache dizziness urinating a lot
			PO 96% w/ O2 72-84 w/o O2
			Pt refused Tx, wants to go to a Haspice and die
			Ordered CT w/ contrast to see obstruction
			3/10 pain ordered NSAID
			decrease in swelling of the lymph nodes
			Need to check cellulitis from IV site, + for esophagal candadia infection, New IV
79			R chamber enlarged EF=10% mitral valve and aortic valve enlarged
			Intermediate coronary syndrome
80			cc agitation, has Alzhiemers, restrained for walking out of his room naked
			D/C
			Pt's brother agrees w/ hospice for his sister
			No stone found, drink fluid
			Pt vomiting can't eat
81			cc rectal bleeding, bright red blood in stool started at 3AM x3 came to ER, cramp in lower abdomen 7/10 pain < bowel sounds on L
82			cc HTN sleep apnea L upper Q pain DMT2 ordered insulin
			Pt not feeling better peeing clear + NVD
83			Hglycemia DMT2 > 500 blood glucose
84			SOB congested
85			cc Kidney stone calculus Nausea from tomato soup, hasn't slept b/c NV tired
			Protonix for GERD, requested bucket to collect vomit "Dr Hussain wouldn't see the pt" pt consulting from another Dr for a GI scope
			Pt not eating, now has infected colon
86			cc NVD x 2 days / coffee ground mat'l, diarrhea 4-5 days
87			cc anemia/ morbidly obese pain 15/10 in right foot, gangrene decub ulcer MRSA culture in ulcer necrosis of toes 1-3 on right foot



15

9

6

4

5

4

88			cc pneumonia and hypoxia, ordered throat culture asked if the was black mold in the house
			diverticulitis improving pt still has abdominal pain
			Ordered lung biopsy
			Bronchoscope observation lavage VOLA 95%, pt has CD4=16 The doctor didn't tell us until after the procedure that we would be exposed to respiratory particles and pt infection. He told us that we should have had respiratory protection but was never advised us about this until after the procedure
89			cc left hip fracture bradycardia < breath sounds acute renal failure left lung mass
			Pain in left leg, pt has 1 lung, pt went into requested transfer to CCU but AF w/ DNR
			Pt sleeping has JVD she did not move to CCU b/c of DNR order in living will,
90			cc hyperglycemia, pt can't control DM, is morbidly obese, Hx COPD, asthma, acute renal failure, reflex sympathetic dystrophy, DMT2, , lupus, mitral valve prolapse, CHF, herniated disks, hiatel hernia, mifrains, neuropothy, TIA, open surgical ulcer x 1 yr on vaccum
91			cc abdominal pain X 1 week diarrhea, cramping squeezing pain radiating from his abdomin down to his testicles Dx with DMT1 sugar 350 -> 150
			Pt is designated with Contact Isolation after over a week of walking around the hospital, pt has C-Dif diarrhea is infectious
			Pt was notified that he is HIV positive and is infected with PCP
			Family met with the doctor for advice on hospice and "No one dies alone"
			redness around stomach wound
92			cc soft tissue pain, pt on chemo for SCLC mets to bone, brain and liver
			cc Dr recommended that he check himself in, PHx: vagus nerve damaged from surgery, pt has chokes on food, has a change in voice, dry mouth SHx upper 1/3rd of right lung removed
93			cc numbness and tingling in thigh hands and feet, pain started last winter, pt is morbidly obese, feeding tube wound from prior Sx is infected, fat folds are infected
94			cc Tingling numbness in fingers and dizziness IV leaked on left arm Hx of cancer in her neck Dx w/ Menyers disease, had tumors surgically removed
95			cc femur fracture of right hip. Pt on chemotherapy fro Stage 4 SCLC, Hx of left hip femur fracture
96			Abdominal pain, vomitted only once, pt stated he has masses on both lungs
			Reviewed ultrasound, possible hydrocele and varicocele
			The pt is to be discharged
			The pt is to be discharged
97			cc SOB, chest pressure in the morning
98			cc Chest pain, many BP medications, trying to consolidate/discontinue medi
99			cc Syncope, collapsed getting out of her car walking to her house. 135/69 le
100			cc SS crisis and pneumonia w/ abdominal pain. Pain started last night about



Circuit Court

County of Oakland

SHALINA KUMAR
CIRCUIT JUDGE

1200 N TELEGRAPH RD DEPT 404
PONTIAC MI 48341-0404

SIXTH JUDICIAL CIRCUIT
OF MICHIGAN
(248) 858-5280
FAX 248-975-9784
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APR 30 2009

April 29, 2009

BY:-----

Paul J. Nicoletti, Esq.
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39520 Woodward Ave., Ste. 200
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APR 30 2009
BY:-----

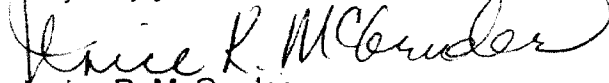
David B. Gunsberg, Esq.
Law Office of David Gunsberg
322 North Old Woodward Ave.
Birmingham, MI 48009

RE: Steven Woodward v Trinity Health-Michigan, et al
Circuit Court Case No. 2007-646-9090

Dear Counsel:

Enclosed please find the Opinion and Order that was issued by the Honorable Shalina Kumar with regard to the above referenced matter.

Very truly yours,


Jenice R. McGruder
Judicial Assistant to the
HONORABLE SHALINA D. KUMAR

EXHIBIT

EXHIBIT 8

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APR 30 2009

STATE OF MICHIGAN

BY:.....

BY:.....

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

STEVEN WOODWARD

Plaintiffs.

v.

Case No. 07-088103 -CZ
Hon. Shalina D. Kumar

TRINITY HEALTH-MICHIGAN
A Michigan non-profit corporation, and
SUSAN CATHERINE ZONIA, an Individual

Defendants.

NICOLETTI & ASSOCIATES, P.C.
PAUL J. NICOLETTI (P44419)
Attorney for Plaintiff
39520 Woodward Ave., Ste. 200
Bloomfield Hills, MI 48304
(248) 203-7800

LAW OFFICE OF DAVID GUNSBERG
DAVID B. GUNSBERG (P24235)
Attorney for Defendants
322 North Old Woodward Ave
Birmingham, MI 48009
(248) 646-9090

OPINION AND ORDER

At a session of said Court held in the
Courthouse, City of Pontiac, Oakland County,
Michigan, on APR 29 2009

PRESENT: HONORABLE SHALINA D. KUMAR, CIRCUIT COURT JUDGE

This matter is before the Court on Defendants' Motion for Summary Disposition pursuant to MCR 2.116(C)(10). Pursuant to MCR 2.119 (E)(3), the Court waives oral argument.

This is a defamation case involving Plaintiff, Steven Woodard, a medical student at American University of Antigua ("AUA"), who alleges that Defendants slandered him by publishing a letter to the AUA faculty that Plaintiff was unprofessional. During this time period, Plaintiff was a visiting medical student

from AUA who had three years of experience prior to his 5th semester at AUA. Plaintiff was cited for unprofessional conduct and used the word "AUSUCKS" as his master program password. Plaintiff also used the "F word" in letters and emails to school officials. In addition, school officials have stated that Plaintiff would "grandstand" and was disruptive during class. During a review exam, Plaintiff used the answer "B" to all questions in order to complete the exam in 10 minutes. Previously, on November 2, 2006, Mr. Woodward was placed on non-academic probation for engaging in inappropriate behavior against one of his professors, Dr. Somaraju of AUA. (See **Exh. 3 - Defendant's Motion for Summary Disposition**). Mr. Woodward was encouraged to seek counseling for anger management at that time.

Despite the evidence of unprofessional behavior, Plaintiff claims that he was defamed when Defendant, Susan Zonia, PHD, wrote to Dr. Ernesto Calderon of AUA wherein she stated:

"Mr. Woodward's lack of professionalism and poor communication skills are a source of great concern. We do not feel that he will be a good ambassador for AUA, our hospital, or the profession he is to enter. We encourage the faculty at AUA to review his entire record, to determine if he does not meet the qualifications to sit for the boards, and begin clinical rotations." (Exh. 1 Defendant's motion for summary disposition).

Plaintiff claims that he was dismissed from the AUA medical school program due to this letter and, therefore, this lawsuit followed.

Plaintiff alleges in his complaint that Defendants communicated false statements to AUA about Plaintiff's unprofessional behavior. Plaintiff also alleges that Defendants, Trinity and Dr. Zonia interfered with his contractual

relationship with AUA. Plaintiff contends that Defendants' defamatory statements contained in the December 17, 2007 letter to AUA, led to his dismissal from the 5th semester program at AUA and permanently damaged his ability to complete his medical school program. Following the completion of discovery, Defendants now seek summary disposition of Plaintiff's Complaint.

A party's motion brought pursuant to MCR 2.116 (C)(10) tests the factual sufficiency of a claim and must be supported by affidavits, depositions, admissions, or other documentary evidence. *Maiden v. Rozwood*, 461 Mich 109 (1999). A trial court properly grants summary disposition when no genuine issue regarding material fact exists and the moving party is entitled to judgment as a matter of law. *West v. Gen Motors Corp* 469 Mich 177 (2003).

The first question presented for this Court is to determine whether there is sufficient evidence necessary to create a question of fact on Plaintiff's claim for defamation. The Court recognizes that, "a communication is defamatory if it tends to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him." *Swensen Davis v. Martel*, 135 Mich App 632 (1984). In order to set forth a prima facie case of defamation, a plaintiff must show (1) defendant made a false statement; (2) defendant published statement to third party; (3) defendant was at least negligent in publishing the statement to third party; (4) either actionability of the statement respective of special harm or existence of special harm caused by publication. *Colista v. Thomas* 241 Mich App 529 (2000). In addition, a publication even if false may be protected by a qualified privilege. "Statements

of opinion are not defamatory. In particular generalized statements regarding lack of professionalism." *Swensen Davis, supra*. Truth is a defense to defamation. *Id.*

Plaintiff asserts in this case that the statements made by Dr. Zonia in the December 17, 2007 letter to Dr. Calderon amounted to defamation. However, the Defendants contend that the statement made by Dr. Zonia alone would not have harmed Plaintiff's reputation in the community given the fact that he was placed on probation by AUA in November 2006. Likewise, this Court recognizes that the Plaintiff had a history of unprofessional behavior for which AUA and Trinity were attempting to address through the administrative means.

The Court notes that Dr. Hrehorovich of AUA had previously labeled Plaintiff as unprofessional in late October 2007, nearly 6 weeks prior to Dr. Zonia's letter to Dr. Calderon.

Moreover, in his deposition, Plaintiff admitted that he was cited for unprofessional behavior by AUA. In particular, Plaintiff admitted that he wanted to stop attending the 5th semester program at AUA because it was a waste of time. Plaintiff admitted that he was labeled unprofessional by Dr. Hrehorovich of AUA, that he engaged in emails and used the F-word in communications with AUA faculty.

The Court finds that there is no factual dispute that Plaintiff engaged in unprofessional conduct while in his 5th year at AUA. Accordingly, there can be no claim for defamation due to the fact that Defendants were simply

communicating truthful information to AUA. *Colista v. Thomas* 241 Mich App 529 (2000).

However, even if the December 17, 2007 letter was defamatory, it was protected by a qualified privilege in that Susan Zonia, PhD was the head of the AUA 5th semester program at Trinity and part of her responsibilities were to evaluate students. Defendant Zonia contends that expressing her opinion as to Plaintiff's "professionalism" was well within the "interest" encompassed by her job responsibilities. See *Feaheny v Caldwell*, 175 Mich App 291, 437 N.W.2d 358 (1989). This Court agrees.

In addition, Defendants point out that Dr. Zonia's publication was limited to Dr. Calderon, the individual in charge of the fifth semester at AUA, who had an interest in determining whether Plaintiff had engaged in unprofessional activity. Furthermore, as demonstrated by the 2006 probation, it was no secret to the faculty at AUA that Plaintiff had engaged in unprofessional conduct prior to receiving the December 17, 2007 letter of Dr. Zonia. The Court finds that Defendant Dr. Zonia was merely communicating her opinions regarding the professional conduct of Plaintiff. Also, Dr. Zonia's letter was supported by substantial documentary evidence of unprofessional conduct of the Plaintiff.

It is significant that in his response brief, Plaintiff attempts to characterize his inappropriate behavior in criticizing Defendants as constructive criticism but this supports Defendants view that Plaintiff engaged in disruptive, inappropriate, and unprofessional behavior. Plaintiff's acknowledgment of his behavior supports Defendant's assertion that Dr. Zonia's letter accusing Plaintiff of being

unprofessional was in fact truthful. Accordingly, upon review of the materials presented, and viewing the evidence in a light most favorable to the Plaintiff, the Court finds that there is no genuine issue of material fact remaining as to Plaintiff's claim for defamation against Defendants Trinity and Zonia. MCR 2.116 (C)(10).

Next, as to Plaintiff's claim for intentional interference with a contract, it is alleged that Dr. Zonia and Trinity interfered with the business relationship between Plaintiff and AUA. To state a *prima facie* case of interference with contract, a plaintiff must show: 1) the existence of a contract; 2) breach of the contract; 3) instigation of the breach by an alleged tortfeasor. *Bonelli v Volkswagen of America, Inc.*, 166 Mich 483, 421 NW 2d 213 (1988). A third-party must intentionally do an act that is per se wrongful or do a lawful act with malice and that is unjustified in law for the purpose of invading the contractual rights of another. *Feaheny supra*.

In this case, Dr. Zonia, as part of AUA, is a party to the contract in question. *Feaheny, supra*. Plaintiff must show that Zonia acted "to further strictly personal motives". *Id.* The Court's review of the evidence submitted shows that Plaintiff cannot show that Defendants engaged in wrongful acts by publishing the December 17, 2007 letter to AUA. Further, the facts demonstrate that Dr. Zonia's actions were privileged in that she was providing her opinion to Dr. Calderon who was the AUA faculty member in charge of the 5th year program.

Furthermore, Plaintiff is unable to demonstrate that he suffered damages as a result of Dr. Zonia's letter being published to AUA. In fact, the AUA committee had sufficient documentary evidence including the 2006 probation, instances of swearing in e-mails to school officials and other unprofessional conduct to justify his dismissal from the 5th semester program. Hence, Plaintiff cannot set forth a prima facie case of intentional interference with a contract. *Bonelli, supra*.

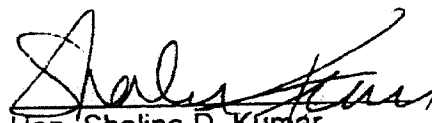
Upon review of the materials submitted, the Court finds that there is no question of fact remaining as to Plaintiff's intentional interference with a contract claim. MCR 2.116 (C)(10). Accordingly, this Court grants Defendants' motion for summary disposition in its entirety as to all remaining claims. *Id*.

WHEREFORE IT IS HEREBY ORDERED that Defendants' Motion for Summary Disposition is **GRANTED** pursuant to MCR 2.116(C)(10).

SO ORDERED

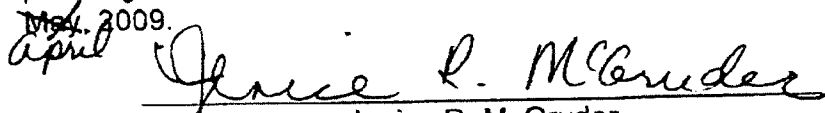
THIS IS THE LAST PENDING CLAIM IN THIS MATTER AND THIS ORDER CLOSES THE CASE.

Dated: APR 29 2009


Hon. Shalina D. Kumar

Proof of Service

I certify that a copy of the above instrument was served upon the attorneys of record or the parties not represented by counsel in the above case by mailing it to their addresses as disclosed by the pleadings of record with prepaid postage on the 29th day of April, 2009.


Jenice R. McGruder

STATE OF MICHIGAN
COURT OF APPEALS

STEVEN WOODWARD,

Plaintiff-Appellant,

v

TRINITY HEALTH-MICHIGAN, SUSAN
CATHERINE ZONIA and AMERICAN
UNIVERSITY OF ANTIGUA COLLEGE OF
MEDICINE,

Defendants-Appellees.

UNPUBLISHED

January 13, 2011

No. 292172

Oakland Circuit Court

LC No. 2007-088103-CZ

Before: GLEICHER, P.J., and ZAHRA and K.F. KELLY, JJ.

PER CURIAM.

Steven Woodward appeals as of right the trial court's grant of summary disposition to Trinity Health-Michigan, Susan Catherine Zonia, and the American University of Antigua College of Medicine (AUA). We affirm.

Woodward was a medical student in his fifth semester of study at AUA. As part of the medical school program, AUA placed Woodward in a clinical experience rotation at St. Joseph Mercy Oakland Hospital (SJMO), which is owned and operated by Trinity Health-Michigan (Trinity). Zonia served as the director of medical education at SJMO, and as a dean for AUA's program at that site. Zonia's duties included oversight of AUA's fifth semester program at SJMO, and the evaluation of student performance. This lawsuit arises from a memorandum authored by Zonia and forwarded to Dr. Ernesto Calderon, an AUA administrator, at Calderon's request. The memorandum described concerns regarding Woodward's demeanor and unprofessional conduct while at SJMO, stating in pertinent part:

Mr. Woodward's lack of professionalism and poor communication skills are a source of great concern. We do not feel that he will be a good ambassador for AUA, our hospital, or the profession he is to enter. We encourage the faculty at AUA to review his entire record, to determine if he does not meet the qualifications to sit for the boards, and begin clinical rotations.

The record documents numerous specific examples of Woodward's inappropriate conduct while at SJMO, including his demonstrated resentment of assignments, his completion of 100 patient logs in a mere two-week period accompanied by an indication that he did not wish

to participate further in the program, statements that the program constituted a waste of time and that he wished to transfer, "sabotaging exams," use of inappropriate language and passwords in communications with AUA, and general lack of respect and disruptive behavior while in classroom settings. Before participating in the SJMO program, Woodward had been placed on non-academic probation at AUA for unprofessional conduct. Woodward's academic performance was also tenuous, as he maintained only a 1.5 grade-point average. Ultimately, AUA initiated proceedings before its grievance and disciplinary committee, and Woodward was dismissed from the medical school. Despite receiving notice of the hearing and having an option to appeal the grievance and disciplinary committee's dismissal recommendation, Woodward elected to not attend the hearing or to pursue any administrative remedies.

Woodward filed a complaint against AUA, setting forth claims for breach of contract and an unspecified invasion of privacy. Additionally, Woodward's complaint asserted claims against Trinity and Zonia for libel per se, intentional infliction of emotional distress based on the alleged libel, and tortious interference with a contractual relationship. AUA filed a motion for summary disposition pursuant to MCR 2.116(C)(8), contending that Woodward had failed to state a claim on which relief could be granted. The trial court granted AUA's subrule (C)(8) motion, rejecting Woodward's contract claim. The trial court also dismissed Woodward's invasion of privacy claim against AUA, finding that Zonia's memorandum had not been publically published. Although the trial court afforded Woodward an opportunity to amend his complaint, he failed to timely submit an amended complaint to the court, or to serve it.

Following discovery, Zonia and Trinity sought summary disposition in accordance with MCR 2.116(C)(10), contending that no genuine issue of material fact existed concerning any of Woodward's remaining claims. The trial court granted defendants' motion, and Woodward now appeals.

This Court reviews de novo the grant or denial of summary disposition. *Ligon v Detroit*, 276 Mich App 120, 124; 739 NW2d 900 (2007). A motion brought in accordance with MCR 2.116(C)(8) tests the legal sufficiency of the pleadings, which are considered alone and without any additional evidence. *Johnson-McIntosh v Detroit*, 266 Mich App 318, 322; 701 NW2d 179 (2005); MCR 2.116(G)(5). In contrast, a motion brought in accordance with MCR 2.116(C)(10) tests the factual support for a claim and is to be granted where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *The Healing Place at North Oakland Med Ctr v Allstate Ins Co*, 277 Mich App 51, 56; 744 NW2d 174 (2007). "A genuine issue of material fact exists when the record, after drawing all reasonable inferences in favor of the nonmoving party, leaves open an issue on which reasonable minds could differ." *Id.*

Woodward first contends that because defendants failed to plead affirmative defenses, the trial court erred by granting summary disposition in their favor. We find this argument utterly without merit. Fundamentally, Woodward misapprehends the procedural distinction between motions for summary disposition and the pleading of affirmative defenses. Contrary to his allegations on appeal, the trial court granted summary disposition based on Woodward's failure to state a viable claim against AUA, and the absence of a genuine issue of material fact with regard to the claims pertaining to Trinity and Zonia. The failure of these defendants to plead various affirmative defenses did not shift the burden of proof, and lacked any relevance to the disposition of Woodward's claims. This Court has explained:

[A]n affirmative defense does not controvert the plaintiff's establishing a prima facie case, but . . . denies that the plaintiff is entitled to recover on the claim for some reason not disclosed in the plaintiff's pleadings [A]n affirmative defense presumes liability by definition. [*Citizens Ins Co of America v Juno Lighting, Inc*, 247 Mich App 236, 241; 635 NW2d 379 (2001) (internal quotation marks and citations omitted).]

Defendants' premised their motions for summary disposition on the inadequacy of Woodward's pleadings and his failure to establish a factual predicate for his claims. Zonia and AUA never conceded Woodward's establishment of a prima facie case for any cause of action pleaded in his complaint. Accordingly, we reject Woodward's claim that unpleaded affirmative defenses barred summary disposition in this case.

Woodward next challenges summary disposition of his claims for breach of contract and an unspecified violation of his privacy. Although Woodward now asserts that his breach of contract action against AUA was based on the student handbook, his pleadings in the trial court belie this argument. Woodward premised his breach of contract claim solely on his payment of tuition, and failed to preserve any argument based on the student handbook. Consequently, we decline to consider this alternative theory on appeal. *Polkton Charter Twp v Pellegrom*, 265 Mich App 88, 95; 693 NW2d 170 (2005). Similarly, Woodward neither pled nor preserved a due process claim. *Id.*

Despite the deficiency of Woodward's pleadings, we address his contention that AUA violated his rights to substantive due process. Woodward primarily relies on *Regents of the Univ of Mich v Ewing*, 474 US 214; 106 S Ct 507; 88 L Ed 2d 523 (1985). Initially we note that this case is factually distinguishable, as no "state action" exists here; AUA is a private entity. Moreover, Woodward cannot demonstrate that AUA denied him due process. A hearing regarding the allegations against him was scheduled, but Woodward declined to participate and failed to pursue an available administrative appeal. In addition, considerable record documentation compiled prior to Zonia's creation of the memorandum supported Woodward's poor academic performance and unprofessional conduct, substantiating sufficient grounds for his dismissal. As noted in *Ewing*, "[w]hen judges are asked to review the substance of a genuinely academic decision, such as this one, they should show great respect for the faculty's professional judgment [and] they may not override it unless it is such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment." *Id.* at 225 (footnote omitted).

We note that Woodward's contentions regarding breach of contract are, to an extent, inherently contradictory. He asserts both the existence of an express contract arising from the student handbook, and an implied contract based on his payment of tuition. An implied contract may exist only in the absence of an express contract governing the same subject matter between the parties. *Morris Pumps v Centerline Piping, Inc*, 273 Mich App 187, 194-195; 729 NW2d 898 (2006). Further, this Court has previously declined to find an implied contract based on the payment of tuition. *Cuddihy v Wayne State Univ Bd of Governors*, 163 Mich App 153, 156-158;

413 NW2d 692 (1987). Specifically, this Court observed in *Cuddihy* the improbability “that a graduate student believed that merely by paying . . . tuition fees” that there existed an entitlement to graduation. *Id.* at 158. Woodward cites to and relies on a recent unpublished case from this Court in support of his contract arguments.¹ Woodward’s reliance is unavailing, as his cited authority cites to *Cuddihy* and its progeny, stating that “this Court has implicitly rejected the contention that student handbooks, codes, or other informational material create contracts, expressly or otherwise, between universities and their students.” Therefore, we affirm the trial court’s grant of summary disposition to AUA on Woodward’s breach of contract claim.

Next, we consider the trial court’s dismissal of Woodward’s claim of invasion of privacy by AUA. As recognized by this Court in *Dalley v Dykema Gossett*, 287 Mich App 296, 306; 788 NW2d 679 (2010),

Michigan has long recognized the common-law tort of invasion of privacy Today, the invasion of privacy tort has evolved into four distinct tort theories: (1) the intrusion upon another’s seclusion or solitude, or into another’s private affairs; (2) a public disclosure of private facts about the individual; (3) publicity that places someone in a false light in the public eye; and (4) the appropriation of another’s likeness for the defendant’s advantage. [*Id.* (internal citations and quotation marks omitted).]

Once again, we note that Woodward’s pleadings lack specificity regarding the actual theory of privacy pursued. Based on our generous construction of Woodward’s appellate arguments, we view his claim as one for false light.

This Court has previously found that to establish a viable claim for false-light invasion of privacy, a litigant must demonstrate “a communication broadcast to the public in general or publicized to a large number of people that places the injured party in a light that would be highly offensive to a reasonable person.” *Early Detection Ctr, PC v New York Life Ins Co*, 157 Mich App 618, 630; 403 NW2d 830 (1986). Further, the individual accused of having invaded the plaintiff’s privacy “must have had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.” *Id.* A “cause of action [under this theory] cannot succeed if the contested statements are true.” *Porter v City of Royal Oak*, 214 Mich App 478, 487; 542 NW2d 905 (1995). “[T]he gravamen of this tort is that a defendant’s publication ‘attribut[ed] to the plaintiff characteristics, conduct, or beliefs that were false and placed the plaintiff in a false position.’” *Battaglieri v Mackinac Ctr for Pub Policy*, 261 Mich App 296, 303-304; 680 NW2d 915 (2004) (citation omitted).

The memorandum which serves as the basis for Woodward’s false-light claim was a communication between Zonia and Calderon, who were both affiliated with AUA. This communication was not broadcast to the public. AUA used the document and its content

¹ *Lee v Univ of Michigan-Dearborn*, unpublished opinion per curiam of the Court of Appeals, issued May 12, 2009 (Docket No. 284541). Under MCR 7.215(C)(1), this case lacks precedential value.

internally, and for a limited purpose. Further, Jeffrey Yanez, M.D. substantively affirmed the accuracy of the various statements in the memorandum. This evidence regarding the truth of the statements precludes Woodward's successful pursuit of a false-light claim against AUA. *Porter*, 214 Mich App at 487.

We next turn to the grant of summary disposition in favor of Zonia and Trinity on Woodward's claims of libel per se and tortious interference with a contract. "Libel" has been "defined as a statement of and concerning the plaintiff which is false in some material respect and is communicated to a third person by written or printed words and has a tendency to harm the plaintiff's reputation." *Fisher v Detroit Free Press, Inc*, 158 Mich App 409, 413; 404 NW2d 765 (1987). To establish his claim for libel, Woodward must show: "(1) a false and defamatory statement concerning the plaintiff, (2) an unprivileged communication to a third party, (3) fault amounting to at least negligence on the part of the publisher, and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication." *Rouch v Enquirer & News of Battle Creek (After Remand)*, 440 Mich 238, 251; 487 NW2d 205 (1992). "[C]laims of libel must be pleaded with specificity." *Royal Palace Homes, Inc v Channel 7 of Detroit, Inc*, 197 Mich App 48, 52; 495 NW2d 392 (1992).

Woodward has failed to establish the falsity of the challenged statements. In addition, the trial court correctly determined that Zonia's statements were protected by a qualified privilege. "The elements of a qualified privilege are (1) good faith, (2) an interest to be upheld, (3) a statement limited in its scope to this purpose, (4) a proper occasion, and (5) publication in a proper manner and to proper parties only." *Prysak v R L Polk Co*, 193 Mich App 1, 15; 483 NW2d 629 (1992) (citation omitted). A qualified privilege may be overcome "only by a showing that the statement was made with actual malice, i.e., with knowledge of its falsity or reckless disregard of the truth." *Id.* "General allegations of malice are insufficient to establish a genuine issue of material fact." *Id.*

Woodward has failed to demonstrate that Zonia's statements lacked "good faith." In response to a solicitation from AUA, Zonia prepared and sent the memorandum evaluating Woodward's performance at SJMO. Clearly, AUA and Zonia maintained an "interest to be upheld" regarding the integrity of their program, their affiliation with Trinity, and the proficiency of their students. The content of Zonia's memorandum was "limited in its scope" to a very specific purpose – the evaluation of Woodward's performance in the SJMO program – and was in response to a request from AUA, constituting both a proper occasion and "publication in a proper manner and to proper parties only." *Prysak*, 193 Mich App 15. The trial court correctly determined that the challenged memorandum and its contents were subject to a qualified privilege.

Because he cannot demonstrate that Zonia acted with malice, Woodward is unable to overcome the finding of the existence of a qualified privilege. No record facts suggest that Zonia's comments were false when made, or were made with reckless disregard for their truth or falsity. Rather, the evidence establishes the contrary, that Zonia's statements were based on ongoing concerns voiced by others regarding Woodward's demeanor and conduct. "[S]ubstantial truth is an absolute defense to a defamation claim." *Collins v Detroit Free Press, Inc*, 245 Mich App 27, 33; 627 NW2d 5 (2001). Although Woodward suggests that Zonia did not sufficiently substantiate the various complaints before drafting her memorandum, mere proof

of a failure to investigate, without anything more, is insufficient to establish a reckless disregard for the truth. *Gertz v Robert Welch, Inc.*, 418 US 323, 332; 94 S Ct 2997, 41 L Ed 2d 789 (1974).

We also affirm the trial court's dismissal of Woodward's claim of tortious interference with a contract. To establish a claim for tortious interference with a contract it is necessary to show: "(1) a contract, (2), a breach, and (3) and unjustified instigation of the reach by the defendant." *Mahrle v Danke*, 216 Mich App 343, 350; 549 NW2d 56 (1996). "One who alleges tortious interference with a contractual . . . relationship must allege the intentional doing of a per se wrongful act or the doing of a lawful act with malice and unjustified in law for the purpose of invading the contractual rights or . . . relationship of another." *CMI Int'l, Inc v Internet Int'l Corp*, 251 Mich App 125, 131; 649 NW2d 808 (2002) (citation omitted). As Woodward has failed to meet the first and second requirements to establish this claim, any action for tortious interference against Zonia and Trinity cannot be sustained.

Finally, *sua sponte*, we note that neither party addressed, nor did the trial court specifically rule on, Woodward's claim of intentional infliction of emotional distress. Because Woodward has not identified this claim as an issue for appeal, we view it effectively abandoned. *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). Moreover, based on our review of the record, Woodward could not have sustained this claim even had he vigorously pursued it. To maintain a cause of action for the intentional infliction of emotional distress, four elements must be established: "(1) extreme and outrageous conduct, (2) intent or recklessness, (3) causation, and (4) severe emotional distress." *Graham v Ford*, 237 Mich App 670, 674; 604 NW2d 713 (1999). Specifically, for liability to be imposed "the conduct complained of [must have] been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized community." *Id.* We reject that the content of the challenged memorandum or the actions taken subsequent to its development meet this high standard of unacceptable behavior. As Woodward cannot demonstrate extreme or outrageous conduct, his intentional infliction claim lacks merit.

Affirmed.

/s/ Elizabeth L. Gleicher

/s/ Brian K. Zahra

/s/ Kirsten Frank Kelly

Subject: Re: AUA v Woodward

From: Marilyn_Orem@mied.uscourts.gov (Marilyn_Orem@mied.uscourts.gov)

To: steve_l_woodward@yahoo.com;

Date: Friday, December 23, 2011 9:00 AM

→ both are set for 1/18/12@10:00-the notice setting hearing on motion for ←
order to show cause for 1/19/12 was an error-it should have been set for
1/18/12 along with the other hearing. I have entered a corrected notice of
hearing on the motion for an order to show cause for 1/18/12@10:00 but I am
not in the office until 1/5/12 so I cannot mail a copy to you. Sorry for
the confusion.

From: Steve Woodward <steve_l_woodward@yahoo.com>

To: "Marilyn_Orem@mied.uscourts.gov"
<Marilyn_Orem@mied.uscourts.gov>

Date: 12/22/2011 05:14 PM

Subject: Re: AUA v Woodward

My Bad, sorry,

I just want to make sure I don't miss any hearings, I think the next
hearing is on January 19th but I'm not 100% sure.

There was a hearing scheduled in January per Docket 185 (Order), I thought
it was 1/8(my bad)

Has that hearing for Order 185 now been cancelled for the January 19th
hearing? I didn't see that on the last docket 192(?) hearing for the
"Motion for Reconsideration".

It seems obvious to me that there isn't going to be a date for Order 185 if
there is a hearing for the motion for reconsideration, but I definitely do
not want to miss any hearings.

I would drive down to the Court house and check myself, but I'm not in town
for the holidays. So your help is greatly appreciated

Thanks again,

This email and any attachments are intended for the sole use of the named
recipient(s) and contain(s) confidential information that may be
proprietary, privileged or copyrighted under applicable law. If you are not
the intended recipient, do not read, copy, or forward this email message or
any attachments. Delete this email message and any attachments immediately.

From: "Marilyn_Orem@mied.uscourts.gov" <Marilyn_Orem@mied.uscourts.gov>

EXHIBIT 10

Subject: Re: AUA v Woodward
From: Eric A Buikema (ebuikema@cardellilaw.com)
To: steve_l_woodward@yahoo.com; marilyn_orem@mied.uscourts.gov; kzalewski@cardellilaw.com;
Date: Tuesday, January 24, 2012 11:17 AM

Mr. Woodward,

I have reviewed and am satisfied that you've complied with the stipulation to remove your site and its derivatives in their entirety. Consistent with my remarks at the hearing, I have strongly recommended to my client that, so long as you do not choose to exercise an appeal (which is your right) or choose to republish (portions of which may also be your right), that it should, in exchange, refrain from pursuing any claim for money damages or contempt sanction against you.

I believe AUA will accept that recommendation but do not yet have confirmation. Don't read anything into the delay. It is simply a function of busy schedules. Provided of course they agree, I would be happy to reduce that agreement to a written stipulation and order for your review and approval.

On a personal note, you have demonstrated considerable energies in the course of this matter. It is my sincere hope that you can now leave this past behind for good and instead begin to focus those considerable energies on a positive future for yourself.

I will advise shortly with which I believe will be AUA's consent to the above.

Eric A. Buikema, Attorney at Law
Cardelli, Lanfear & Buikema, P.C.
322 West Lincoln Avenue
Royal Oak, Michigan 48067
(248) 544-1100
(248) 544-1191 fax
ebuikema@cardellilaw.com

On 1/20/12 10:03 AM, "Steve Woodward" <steve_l_woodward@yahoo.com> wrote:

Dear Ms. Orem,

I would like to know the status on my case and the outstanding Motions.

Is Judge Duggan going to moot all my outstanding motions?

EXHIBIT 11

I still have not heard back from the Plaintiff or Court concerning shutting down my Website et al, if it meets their approval.

I have not heard back from the Court or the Plaintiff concerning alleged damages.

Thank you for your time,

Steven Woodward

This email and any attachments are intended for the sole use of the named recipient(s) and contain(s) confidential information that may be proprietary, privileged or copyrighted under applicable law. If you are not the intended recipient, do not read, copy, or forward this email message or any attachments. Delete this email message and any attachments immediately.

Subject: American University v Woodward - 11-11-11 from Eric Buikema
From: Kathryn Zalewski (kzalewski@cardellilaw.com)
To: steve_L_woodward@yahoo.com;
Date: Friday, November 11, 2011 11:07 AM

<<11-11-11 ltr to woodward - rfp response.pdf>> <<aua's response to rfp - without attachments - 11-11-11.pdf>>

Sincerely,

Kathy Zalewski

Legal Secretary

Cardelli, Lanfear & Buikema, P.C.

322 W. Lincoln

Royal Oak, MI 48067

(248) 544-1100

kzalewski@cardellilaw.com

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EXHIBIT 12

A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AMERICAN UNIVERSITY OF ANTIGUA COLLEGE
OF MEDICINE, a foreign corporation,

Plaintiff,

V

STEVEN L. WOODWARD,

Defendant.

United States District Court Judge
Patrick J. Duggan, presiding
Michael Hluchaniuk, referral
Case No.: 2:10-cv-10978

Eric A. Buikema (P58379) CARDELLI, LANFEAR & BUIKEMA, P.C. Attorneys for Plaintiff 322 W. Lincoln Royal Oak, MI 48067 (248) 544-1100 ebuikema@cardellilaw.com	STEVEN L. WOODWARD In Pro Per c/o 7211 Brittwood Lane Flint, MI 48507 Steve_L_woodward@yahoo.com
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CERTIFICATE OF SERVICE

The undersigned certifies that the Plaintiff's Response to Defendant's Request for Production Pursuant to FRCP 34 with responding documents and this Certificate of Service were served upon Steven L. Woodward, via First Class U.S. mail to Steven Woodward, c/o 7211 Brittwood Lane, Flint, MI 48507 and only Plaintiff's Response to Defendant's Request for Production Pursuant to FRCP 34 and this Certificate of Service, via his email address Steve_L_woodward@yahoo.com, on November 11, 2011.

/s/ Eric A. Buikema (P58379)
Eric A. Buikema (P58379)
Cardelli, Lanfear & Buikema, P.C.
322 West Lincoln Avenue
Royal Oak, Michigan 48067
(248) 544-1100
ebuikema@cardellilaw.com

Cardelli, Lanfear & Buikema, P.C.

Royal Oak/Detroit Office
322 W. Lincoln
Royal Oak, MI 48067
248 544 1100
248 544 1191 Fax
www.cardellilaw.com

Grand Rapids Office
Grand Rapids, MI 49503
616 285 3800



November 11, 2011

Via e-mail Steve_L_woodward@yahoo.com and first class mail

Steven Woodward
c/o 7211 Brittwood Lane
Flint, MI 48507

RE: American University of Antigua College of Medicine v.
Steven Woodward
Case No. 2:10-cv-10978
Our File No. Misc 3748

Dear Mr. Woodward:

Enclosed please find the following:

- Plaintiff's Response to Defendants Request for Production Pursuant to FRCP 34;
- Proof of Service

The documents being produced are only being sent to you via first class mail.

Regards,

Eric A. Buikema
ebuikema@cardellilaw.com
248-544-1100
248-544-1145 x2050 Direct

EAB/ktz
Enclosure